DOCUMENT RESUME

ED 447 982 RC 022 607

AUTHOR	Erni, Christian, Comp.; Parellada, Alejandro, Comp.
TITLE	The Indigenous World, 1999-2000 = El Mundo Indigena, 1999-2000.
INSTITUTION	International Work Group for Indigenous Affairs, Copenhagen (Denmark).
ISBN	ISBN-87-90730-32-1; ISBN-87-90730-28-3
ISSN	ISSN-0105-4503
PUB DATE	2000-00-00
NOTE	862p.; Photographs and maps may not reproduce adequately. For 1998-99 edition, see ED 432 434.
AVAILABLE FROM	IWGIA, International Secretariat, Classensgade 11E, DK-2100, Copenhagen, Denmark; e-mail: iwgia@iwgia.org ($20.00 plus postage for either English or Spanish version).
PUB TYPE	Collected Works - Serials (022) -- Reports - Descriptive (141) -- Multilingual/Bilingual Materials (171)
LANGUAGE	English, Spanish
EDRS PRICE	EDRS Price MF05 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Activism; American Indians; *Civil Liberties; Colonialism; Conservation (Environment); Cultural Maintenance; Elementary Secondary Education; Ethnic Discrimination; Females; Foreign Countries; *Indigenous Populations; Land Use; Language Minorities; Natural Resources; Organizations (Groups); *Politics; *Self Determination
IDENTIFIERS	*Land Rights; United Nations

ABSTRACT

This annual publication (published separately in English and Spanish) examines political, social, environmental, and educational issues concerning indigenous peoples around the world during 1999-2000. Part 1 highlights news events and ongoing situations in specific countries in nine world regions: the Arctic, North America, Mexico and Central America, South America, the Pacific and Australia, East Asia, Southeast Asia, South Asia, and Africa. Articles of educational interest on the Arctic and the Americas discuss language use (Greenlandic versus Danish) in Greenland; native language instruction for the Sami in Russia; "Indian control of Indian education" and technology use in Indian schools in the United States and Canada; financial support for U.S. tribal colleges; controversy over university research into indigenous ethnobotanical knowledge in Chiapas, Mexico; and assimilationist efforts to decrease the number of indigenous teachers and health workers in Peru. Other education-related articles discuss the struggle for indigenous language rights in Nepal and describe research and a documentary film on the educational situation of San children in southern Africa. Other indigenous issues include violations of human rights, environmental threats and indigenous opposition, legal and political reforms, land rights, cultural assimilation, intellectual property rights, and relationships between indigenous peoples and national governments. Indigenous women's issues are included throughout. Part 2 describes developments on indigenous rights at the United Nations. (Contains maps and photographs.) (SV)

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THE INDIGENOUS WORLD 1999-2000

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THE INDIGENOUS WORLD

1999-2000

IWGIA
Copenhagen 2000

ISSN 0105-4503 ISBN 87-90730-32-1

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Cover: Jorge Monras

Cover photo: Harakmbut indigenous from Madre de Dios, Peru. Pablo Lasansky

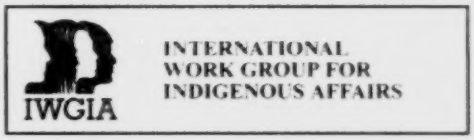
Typesetting: Christian Erni

Prepress and Print: Eks-Skolens Trykkeri, Copenhagen, Denmark

Translation from Spanish: Elaine Bolton

English language editing: Pippa Small

This edition of the Indigenous World has been compiled and edited by Christian Erni; the section on Latin America by Alejandro Parellada.



CONTENTS

Editor's Note 7

Part I: The Indigenous World

The Arctic 17
North America 43
Mexico and Central America 59
South America 83
The Pacific and Australia 153
East Asia 193
Southeast Asia 205
South Asia 285
Africa 333

Part II: Indigenous Rights

The Draft Declaration on the Rights of Indigenous Peoples Remains on its Troubled Path Through the UN
by Sarah Pritchard 381

Permanent Forum on Indigenous Issues: Chasing the Mirage
by Suhas Chakma 402

IWGIA Publications

New Publications 423
Available Documents 426

7

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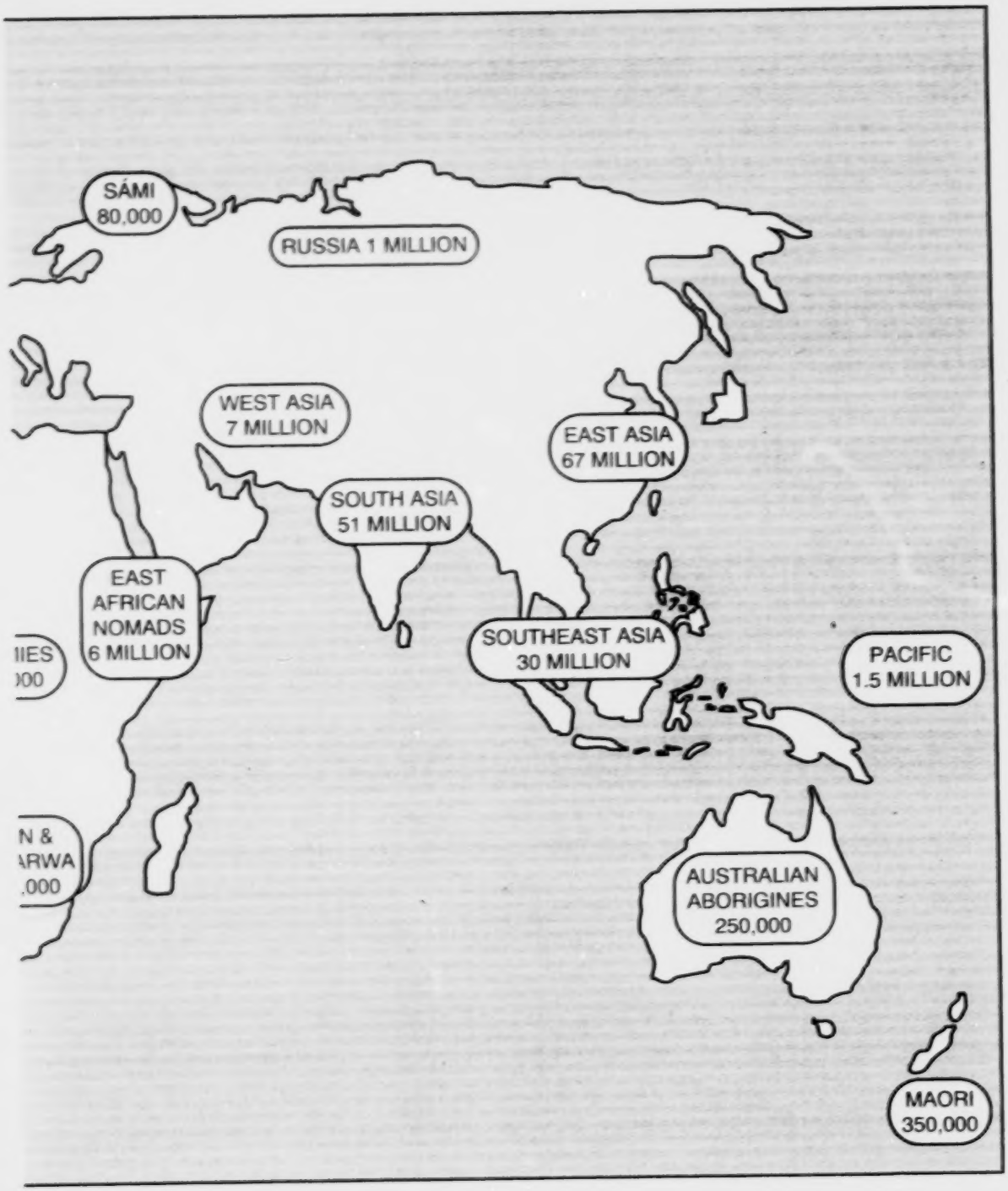

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EDITOR'S NOTE

The response received so far from readers of the yearbook has largely been positive. Of course, a number of shortcomings in the publication have also been brought to our attention. To report comprehensively on the most crucial developments in the indigenous world is an enormous task, and a goal we will always strive to achieve but perhaps not quite attain. The indigenous world is too varied and complex, and our limited capacity does not currently allow for more extensive research in order to extend our coverage to more regions and peoples. The writing has thus far been undertaken on an entirely voluntary basis, by a large number of indigenous and non-indigenous authors. If you feel there is a crucial area lacking in our publication that should be covered in future issues, please do contact us and provide us with the information.

In response to one criticism, we have abolished the separate section on indigenous women, which was introduced only two years ago. We find the argument convincing that by treating indigenous women's issues in a separate section a division is created, which may give the impression that the first, larger part of the book is solely devoted to indigenous men's issues. Following the comments we received, the contributing authors were encouraged to include indigenous women's issues within their articles, and separate articles submitted were integrated into the regional chapters.

The editor is aware that, once again, important regions or issues are not dealt with in this year's edition. Particularly notable is a lack of reporting on crucial developments in China, Canada and the USA. The reason for this regrettable omission is simply that the promised manuscripts were not delivered. We were thus extremely grateful that one author was willing to provide us with last minute summary articles on some of the most important developments in North America, such as in Nunanvut. And we would appreciate any suggestions, and particularly concrete contributions, to next year's issue, which we hope will come a little closer to our goal of providing comprehensive coverage of current developments in the indigenous world.

CONTRIBUTIONS

IWGIA would like to extend warm thanks to the following people and organisations for having contributed to *The Indigenous World*:

The Arctic

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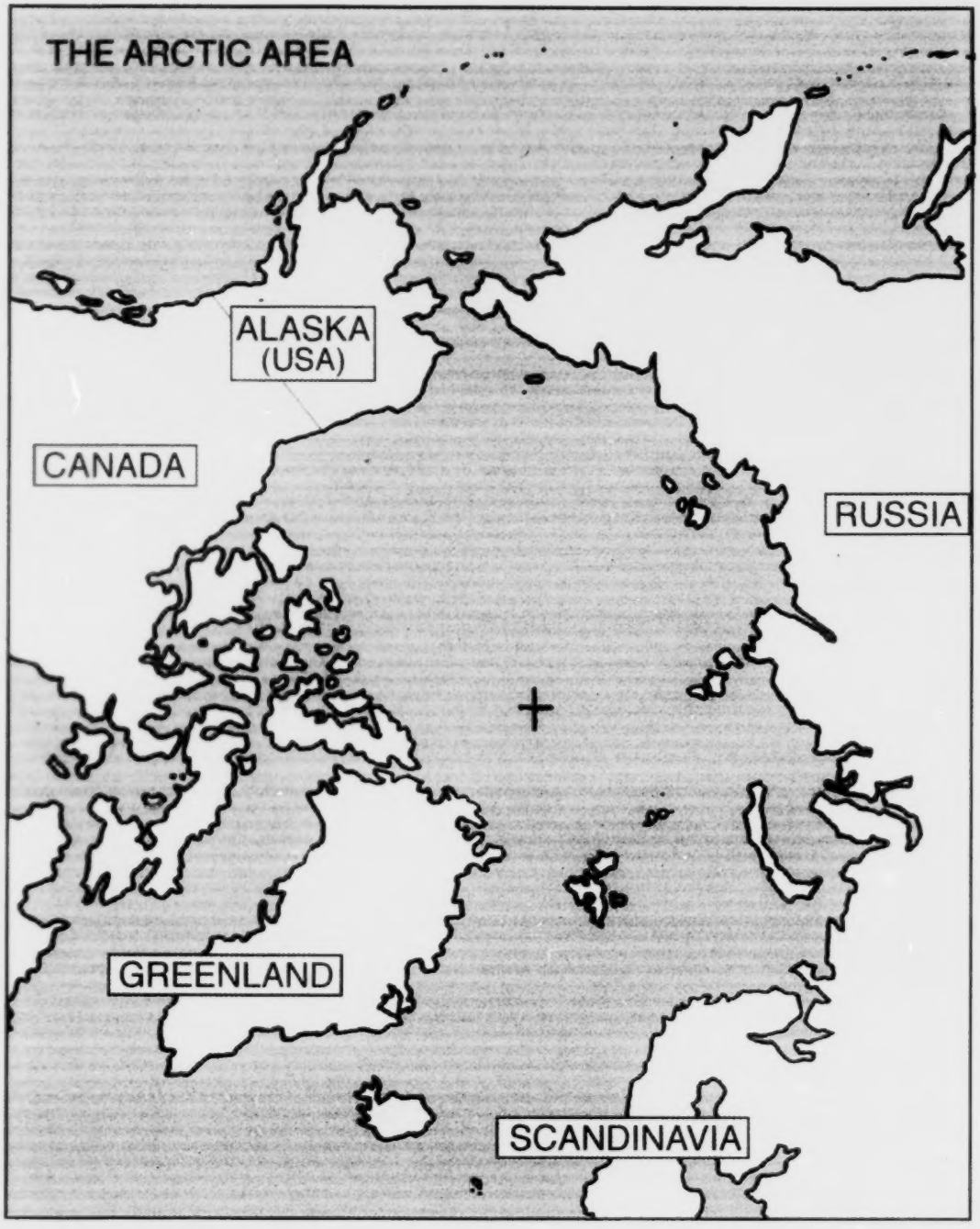
15

PART I

THE INDIGENOUS WORLD



Countries/regions covered in this issue: Alaska, Canada, Greenland, Russia, Sápmi

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ARCTIC

ALASKA

The Subsistence Debate

The subsistence debate continued to rage in Alaska throughout 1999 and into the new millennium. At issue is whether or not the residents of rural Alaska (mostly indigenous peoples) should be guaranteed a preference in the taking of fish and game in times of shortages. A 1980 federal law, the Alaska National Interest Lands Conservation Act (ANILCA), allowed for such a provision partially restoring the aboriginal hunting and fishing rights that were abolished by the 1971 Alaska Native Claims Settlement Act.

An Alaska state law was passed that implemented the federal requirement throughout Alaska, but a lawsuit filed in the Alaska state court by sports hunting and fishing groups challenged this state law and, in 1990, the Alaska Supreme Court ruled that the law was unconstitutional. This put the State of Alaska law in opposition to U.S. federal law. The result was that the U.S. federal government took over management of game animals on federal lands in Alaska in 1991.

The process of taking over the management of fish in federally controlled waters in Alaska took much longer than that of taking over game management on federal lands. Fish are a crucial component of the lives of Alaska Natives and make up 59% of their subsistence diet. After numerous moratoriums, extensions and delays, designed to give the State of Alaska the opportunity to comply with federal law, the federal government took over the management of fish in federally controlled waters in Alaska on October the 1st 1999.

Prior to the takeover of fish management in federally controlled waters a key legal case went through the court system. This case, *Katie John v. United States*, was the result of Katie John, an Ahtna Athabascan woman from the upper Copper River region, suing the federal government in 1984 to allow her to resume fishing at her traditional fish camp. The State of Alaska had prohibited her from fishing at her family's ancestral fish camp since 1964. The case reached the U.S. Ninth Circuit Court of Appeals in 1994 which ruled that those inland waters that flow through or touch federal lands fall under the protection of ANILCA and that rural residents have a subsistence priority. Implementation of this ruling was delayed by a series of congres-

sional moratoria in attempts to give the Alaska State Legislature time to comply with ANILCA. The required solution would be an Alaska state constitutional amendment that would have to be approved by a vote of all the citizens of Alaska. This vote of the people, however, cannot take place unless two-thirds of the legislature votes to approve putting the amendment to a vote of the people. Despite special legislative sessions (including one in 1999) on subsistence, and numerous regular sessions, there has not been the two-thirds vote to take the issue to the people. This is despite the fact that surveys have consistently shown that a large majority of Alaska voters approve of the subsistence priority for rural residents.

In a move that shocked and disappointed many people in the Alaska Native community, in January 2000 Alaska Governor Tony Knowles announced that the State of Alaska was appealing the ruling of the Ninth Circuit Court in the Katie John case to the U.S. Supreme Court. This action caused the Alaska Federation of Natives (AFN) to call a special convention to decide how to respond to the governor's action. With less than two weeks notice 90% of all AFN delegates showed up at the special convention held in Anchorage on February the 15th. The convention passed six resolutions charting a course of action for AFN. In the first of the resolutions, it was resolved that, "the Alaska Federation of Natives will use all available political, economic, and legal resources to oppose and defeat the State's appeal of the (Katie John) decision." AFN changed its long held course of supporting the return of management of fish and game to the state if the state complies with federal law by saying, "the Alaska Federation of Natives will no longer support efforts to return subsistence management to the State of Alaska, by constitutional amendment or otherwise, unless the State's elected leadership, including the Governor, acknowledges the real needs of Alaska Natives by agreeing to State-Tribal co-management and by formalising and implementing joint jurisdiction over navigational waters so as to ensure subsistence for all Alaska Natives."

While subsistence foods are an important part of the economy in rural Alaska they are much more than an economic need to Alaska's indigenous people. Subsistence lies at the very core of cultural values and identity. And while estimates have been made that say that without subsistence foods, Alaska Natives would have to pay $20 million dollars a year more for food, it is not for this reason alone that they feel a need for subsistence food. Subsistence is considered a dire necessity for strong mental health and a source of strength for the 100,000 Alaska Natives living in Alaska. Above all, the right to live a subsistence lifestyle is considered a *human right*. "Alaska Native subsistence

is a human right to food and a cultural right to continue to exist as a people" said an Alaska Federation of Natives resolution. Ironically, the subsistence take of fish in Alaska is very small compared to the take of the other two users, commercial and sports. Subsistence users in Alaska harvest only four per cent of fish. The other 96% is taken by commercial and sports fishers.

Native Leader Morris Thompson Dies in Plane Crash

Morris Thompson, one of Alaska's best known indigenous leaders, was one of the 88 people killed on January the 31st 2000 when Alaska Airlines Flight 261 crashed into the Pacific Ocean on a flight from Puerto Vallarta, Mexico to San Francisco. His wife and daughter also perished in the crash.

Thompson, an Athabascan Indian from Tanana, retired last December as the president and chief executive officer of Doyon Ltd., a position he had held since 1985. Doyon is the corporation formed under the Alaska Native Claims Settlement Act to represent the indigenous people of interior Alaska. The corporation owns 12.5 million acres of land, making it the largest private landowner in the United States. Doyon has been considered very successful as a business corporation and it generated $70.9 million in revenues during Thompson's last year as president. The corporation has 900 employees and 14,000 mostly Athabascan stockholders.

Thompson held many high level positions before taking over Doyon, including serving as Commissioner of the Bureau of Indian Affairs during the Nixon administration, President of the Alaska Federation of Natives, and a cabinet member of Alaska Governor Walter Hickel during his first term in the 1960s. The special Alaska Federation of Natives Subsistence Convention held on February the 15th was dedicated to Thompson's memory.

CANADA

Nunavut

It feels as though I have been watching a revolution in slow motion. Profound changes have taken place in our lives and our society. From the almost total isolation from the outside world of my early years in Resolute Bay in the High Arctic, to the computer space age when the world is at my fingertips, has been a journey of sorrow, joy and adventure.
John Amagoalik

April the 1st 1999 was the first day of Nunavut, the new territory of northern Canada. Nunavut, "Our land" in the language of the Inuit - whose name means 'the people' in the official language Inuktitut - is an area two million square kilometres in size, located in the Canadian arctic regions above Hudson's Bay. By securing Nunavut, the Inuit have control over this territory, in much the same way as if a native tribe were to receive statehood in the United States. As such it was a landmark day for Canada and the First Nations, on which the residents won the right to self-government. It remains to be seen whether this right is not going to be undermined by the need to create jobs in the mineral industry, whose multinational corporations may easily move in and, under the constraints of employment, start extracting the natural wealth of the Inuit in an unsustainable way.

Nunavut was created by dividing the Canadian Province of the Northwest Territories. The western part keeps its original name and is approximately one third of the size of the original state. The eastern part comprises the new territory of Nunavut. Eighty per cent of its population are Inuit. Some important dates in recent history helped pave the long way towards this landmark decision. During the 1920s and 1930s, most Inuit were troubled by fluctuating fur prices, epidemics and shortages of wildlife. A further burden was the establishment of five residential schools that removed Inuit children as young as five, both from their families and from the whole context of Inuit culture, sometimes for years. Incidents of physical and sexual abuse also took place at some church-run residential schools. In general, however, the Inuit retained their language and sense of independence, within or despite the ill-defined authority of the 'Big Three' - the policeman, the trader and the missionary. After the Second World War, in response to the Inuit's migration between hunting and trapping areas, governments began to move families to places of

supposed economic opportunity, such as Churchill, Manitoba, and the new town of Inuvik, Northwest Territories (NWT). During the mid 1960s, a federal public housing programme, complete with an orientation phase, created instant villages using prefabricated units. This ended the old scattered camp distribution of the Inuit.

Twenty Years of Tenacious Negotiations

In 1971, the Inuit Tapirisat of Canada (ITC) was formed to pursue land claims in the NWT. Right from the beginning, Inuit-leaders had made clear that land claim negotiations would only be pursued if the final solution was going to result in the creation of an independent territory, "even", as Tom Suluk, an Inuit adviser said, "if the negotiations had to take a generation". In 1976 the ITC proposed the creation of Nunavut to the Canadian government, which did not want to confer jurisdiction of the territory to the Inuit. In 1979 Peter Ittinuar, the first Inuk Member of Parliament, stood up in the House of Commons and spoke Inuktitut. This represented another milestone in the epic journey of the Inuit towards self-determination. In the spring of 1982, the people of the Northwest Territories voted to divide the NWT and create Nunavut. The Inuit tried hard to get a freeze on industrial development during negotiations, without much success. Other controversial issues loomed as well, such as the powers of a wildlife management board, the Inuit's offshore rights, and the boundary between Dene and Inuit claims, a point still contested today by Manitoba Dene in an ongoing Federal Court case. A final agreement was reached in September 1992 - after an agreement-in-principle was signed in 1990 - and ratified by Inuit beneficiaries in a plebiscite held on November the 3rd to 5th 1992. The choice was difficult for some voters, because voting for the land claim agreement meant they would have to exchange aboriginal rights and title to all land and water in the Nunavut Settlement Area, save for the 355,842 square kilometres of Inuit-owned land. In the end, 84.7% of voters still endorsed the agreement.

"It was the Inuit vote that made the deal. It wasn't all the other symbolic acts", said senior federal negotiator Barry Dewar, who was at the Discovery Lodge Hotel in Iqaluit when the ratification committee announced the results. On May the 25th 1993, the final agreement was signed in Iqaluit. In terms of financial compensation it was Canada's largest ever claims settlement. $1.1 billion to be paid out between 1993 and 2007, and 1.9 million square kilometres of land and water (corresponding to the size of Germany), including mineral rights to 35,257 square kilometres within the Inuit-owned land portion.

In June 1993, the *Nunavut Act* was passed by Parliament, conceding one fifth of Canada's land base to the Inuit who thus govern the country's largest territory or province. And the final step took place on February the 15th 1999, when the first election for the first Nunavut legislative assembly was held.

French President Jacques Chirac confers with Nunavut premier Paul Okalik at a welcoming ceremony for the French head of state at the Nunavut legislative assembly in September 1999 (Foto: Nunavut-website)

Towards a Nunavut Territory

Before division in 1999, the NWT stretched across one-third of Canada's land mass and comprised two main regions - the partly forested Mackenzie Valley in the west, with an ethnically mixed population of Dene, Métis, Inuit and non-aboriginal people, and the almost treeless east, where 85% of residents are Inuit. During the past century, Inuit from Chukotka to Greenland have undergone changes that took the industrialised peoples of the world at

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least 5000 years to make. This blizzard of change has taken a heavy toll on the Inuit, both individually and collectively. But some of the qualities that sustained the old hunting culture have enabled the Inuit to adapt remarkably well to an invasive, unstable modern world.

Canadian Inuit have united within an Inuit Circumpolar Conference, in ITC, and the women's organisation, Pauktuutit. There are regional and local organisations of many kinds, including co-operatives and governments. Under this canopy of unity and identity, the Inuit of Canada have negotiated four major land claim treaties. If the new territory is included, the Nunavut agreement is the most extensive of its kind in the world. Those Inuit who repudiated the original 1976 claim submission envisaged a revised claim that embodied the simplicity, humanity and common sense of traditional Inuit society. Given the vast difference between the two bargaining cultures, that goal was inevitably lost. Both the claim agreement and the new territory create bureaucracy, complex financing, and legalities.

The Inuit way did succeed, however, during the long negotiation period, both at the table and away from it. The Inuit negotiators maintained an atmosphere of respect and courtesy, preferring pragmatism and reason to posturing and rhetoric. In this climate, bargaining led to joint planning, particularly in the field of environmental management. Although there were numerous reorganisations within the Inuit camp, a core group of leaders and dedicated consultants maintained a continuity of style and purpose throughout the years of negotiation. The government side, both federal and territorial, responded in kind to the Inuit approach. Most people are aware of the problems that Nunavut faces - among them sparse resources, distant markets, a difficult climate, and an ill-prepared population, all in a volatile global setting.

The following quote from John Amagoalik expresses the hopes that are shared by many supporters and Native Nations alike. "There was a time when many of my generation did not have pride in our Inuit identity and were not sure if they wanted to be Canadian citizens. Today, there is a resurgence of Inuit pride and we have become loyal Canadians. Even though our people have encountered racial discrimination in the past, we want reconciliation and we want all to feel welcome in our homeland. Our patience and our willingness to share, continue to be cornerstones of our society."

Sources

Nunavut '99
John Amagoalik, chief commissioner of the Nunavut Implementation Commission.
Keith Crowe, chief negotiatior
INCOMINDIOS Newsletter 1,1999

For more information see:
Nunavut-web site: http://www.nunavut.com/nunavut99/english/index.html

The web site of the youngest Premier in Canada, Paul Okalik, 34 year old Inuit and the first Premier of Nunavut: http://www.inac.gc.ca/pubs/transition/may99/port.html

Recent Political Developments in Nunavik (Québec)

Ever since the Inuit of arctic 'Nouveau-Québec' signed the James Bay and Northern Quebec Agreement (JBNQA) over their land with the governments of Canada and Quebec and the industrial corporations to build the massive hydro-electric developments in 1975, there been efforts on the part of the Inuit to regain, strengthen, and enhance their political, socio-economic and cultural position as an aboriginal nation within Canada and Québec. Although the Agreement was accepted as a negotiated legal framework for issues dealing with aboriginal rights, land claims and ownership as well as education, health and economy, Inuit, represented by the Makivik Corporation, have never fully been at ease with the various sections of the Agreement. In the year 2000, after a quarter of a century of experience, renewed steps are being undertaken by the tri-partite Nunavik Commission, whose members represent the Inuit of Nunavik (Makivik Corporation), Canada and Québec. This Commission is to seek solutions to the Inuit's wish to establish a political institution that would encompass their homeland - Nunavik - and guarantee broader autonomy and government for that region.

Since 1975, several initiatives had been taken by both Inuit and Canadian governments to find ways to accommodate the desire for aboriginal autonomy under the guise of regional government, a concept that gradually has been accepted as another level of public government within the confederative framework of Canada. In 1983 the federal Parliamentary Commission on Aboriginal People opened a broad discussion of such issues. However, the provincial government of Québec insisted at that time that the Inuit living in Québec would speak as one voice.

After a referendum (1987) and an election (1989) in Nunavik focusing on constitutional issues, the Inuit negotiated among themselves and established the Nunavik Constitutional Committee which entered into discussions with Québec in 1990. However, developments around the Canadian constitution of 1982 that Quebec had not signed led to the Charlottetown Accord being defeated in 1992 and thus interrupted the talks between Nunavik and Québec. However contacts were resumed between 1994 and 1995. But the Québec

referendum on sovereignty in late 1995 and changes in Inuit leadership caused a suspension of these discussions.

In September 1997, lines of communications were opened up again between Makivik Corporation and the Québec government to focus on the creation of a public government north of the 55th parallel in Quebec (the southern boundary of Nunavik also known as Kativik Region in the JBNQA). Both Makivik Corporation and Québec's Secretariat for Indigenous Affairs (Secrétariat des affaires autochtones [SAA]) were given the mandate to explore and settle on an institutional framework for negotiateing 'public self-government' for the Nunavik Region. The parameters were discussed in 1998 and 1999. On the fifth of November 1999 the Nunavik Political Accord was signed by the Nunavik Party (Makivik Corporation), the Government of Québec, and the Government of Canada (the latter in with regards to issues falling under federal jurisdiction).

This Accord is seen as a major step towards creating a public government for the residents of Nunavik within the political framework of Québec and Canada. The Accord established the tri-partite Nunavik Commission that began its public and closed deliberations in December 1999 by scheduling meetings and hearings in all Nunavik communities and seats of governments. The concrete proposals by the Nunavik Commission are expected by the end of 2000.

There are eight members of the commission: the two co-chairs representing Québec and Nunavik (both men); two members representing Nunavik (one man, one woman), two Quebec (one man, one woman), and two Canada (men). Three of them are Inuit and five francophone (québécois; a lawyer, an administrator and three academics). Next to Makivik Corporation other existing regional institutions in Nunavik - Kativik Regional Government, Kativik School Board, Nunavik Regional Board of Health and Social Services and Kativik regional Development Council - are represented through the Nunavik Party (Political Accord, Section 2.2). The members, the mandate, and financing were settled upon by consensus. Each party covers its own expenses (travel, etc.). In addition, the federal and provincial governments have made financial contributions for other expenses - in all $770,000, a considerable sum for such an undertaking.

The Political Accord spells out the exact tasks the Commission has to perform under the general mandate: '... to examine the creation of a form of government which, within the jurisdiction of Québec and Canada, will take into account the Nunavik arctic realities; which will respond to the needs, desires, and aspirations of Inuit and other residents living in this territory,

which will have appropriate resources and powers of self-government for the [sic] Nunavik' (Preamble, second paragraph). Further, the tasks are confined '... to develop a timetable, plan of action, and recommendations for the structure, operations and powers of a government in Nunavik' (Section 1.1), and that these items '... will be ready for implementation in concrete terms' (Section 1.2).

It is also made clear that '[t]he recommendations tabled by the Commission shall be subject to a consensus from all its members.' (Section 3.3). These recommendations are submitted to the Government of Québec and shall cover the following items related to public government in Nunavik (Section 4.1.a-j):.

- 'powers, jurisdictions, responsibilities and competencies';
- 'election process';
- 'selection of the Leader and the elected members' and 'role of executive';
- 'initial administrative design';
- 'timetable for the consolidation under a Nunavik Government';
- 'relationship between governments' within the political context;
- 'financing';
- 'measures to promote and enhance the Inuit culture in Nunavik, including the use of Inuktituk in the Nunavik Government';
- measures to fill governmental positions with Nunavik residents in the greatest numbers;
- creation of the government 'to include a vote among residents of Nunavik prior to implementation'.

This range of recommendations is ruled and clearly limited by overriding principles identified in Section 5. Here is a selection of some items.

- 'the Nunavik government will be non-ethnic in nature';
- the government 'shall come under the jurisdiction of the Québec National Assembly';
- rights attained under the JBNQA shall not be modified and any amendment to it can only be made by consensus;
- the Nunavik Government should not prejudice the rights of the Cree and Naskapis under the JBNQA;
- the proposed governmental form has to adhere to existing legal and economic realities. However, 'it may also be innovative in nature'. Still, the

rights and responsibilities of the Québec and Canada governments are not to be curtailed;

- 'the establishment of a Nunavik Government shall respect the arctic character of Nunavik and close relationship between the Inuit of Nunavik and Nunavut.'

Finally, in Section 8, a disclaimer states that: 'This Accord shall not be interpreted as a treaty or a land claim agreement within the meaning of section 35 of the Constitution Act of 1982.'

For obvious reasons, the performance and impact of the Nunavik Commission cannot be assessed at this time. Still, the content of the Political Accord allows some assessment of the situation and the identification of some areas that could be seen as stumbling blocks towards the road to autonomy for the Nunavik region. In summary, these points concern Inuit grievances related to sections in the JBNQA that touch upon the economic development of wildlife harvesting (hunting, fishing, and trapping) and, in general, upon the control over regional development. Furthermore, although matters of Inuit culture and language are included in the overriding principles, it is not clear how secure their legal position will be, for example, Inuktituk as an official language. And finally, Inuit perceive of Nunavik as their homeland, i.e. settlement and land-use area, to include terrestrial and maritime areas disregarding any political boundaries introduced by Canada or Québec. Thus jurisdictional issues that always relate to territory will have to take into consideration the drawing of boundaries, i.e. between Québec and the newly established Nunavut Territory (federal, provincial, territorial jurisdictions) and more specifically between Inuit lands and water, that is between Nunavik and Nunavut and their respective governments. The current boundary set at the low-water tidal mark does not carry much logic!

Sources

Press releases issued jointly by Makivik Corporation, governments of Canada and Québec, November 29, 1999.

Political Accord between the Nunavik party, the government of Québec and the federal government for the examination of a form of government in Nunavik through the establishment of a Nunavik Commission. Signed at Dorval, November 5, 1999. 12 p.

28

GREENLAND

Structural Adjustment

For 10 years, Greenland's economy has experienced no growth, a fact that endangers its wish to develop a self-centred economy that will allow it to achieve its long-term goal of becoming more independent of Denmark. It is still so dependent on Denmark, that its public expenditure derives from large annual block grants from that country. These economic facts are important factors behind the increased demand for fundamental changes to Greenland's economy, changes that are inspired by the world-wide trend towards structural adjustment programmes, but which the ruling political parties in Greenland try to modify to accommodate local realities. Since colonial days, Greenland's economy has been dominated by public corporations. After Home Rule was introduced in1979 the colonial trading company was diversified and split up into a number of publicly controlled share-holding companies.

In order to boost the economy even the socialist party Inuit Ataqatigiit which, together with the social-democratic Siumut party, make up the government, has suggested changes that will mean an end to some of the economic benefits enjoyed by people living in outlying villages and districts. Changes have also been suggested to open the door to more competition in sectors which to date have been monopolised or controlled by Home Rule owned companies. The sectors concerned are transport, retail trade, telecommunications and fish processing. Where Greenland differs from many other countries and self-governing regions, is in the way that the ruling parties try to defy the blind application of liberal structural adjustment programmes as suggested by, for example, the OECD, instead trying to take account of local social and demographic factors.

Parliament Election

Elections to the Home Rule parliament in early 1999 gave new strength to the left wing Inuit Ataqatigiit party that together with the Siumut party made up the new government coalition. The Chair of Inuit Ataqatigiit, Joseph Motzfeldt, was the winner of the election with the highest number of personal votes. To some extent the election could be seen as a protest against the old parties with the other winner being a protest movement that took more than 12% of the votes (compared to Inuit Ataqatigiit's 22% and Siumut's 35%). Four government members were not re-elected and 14 out of the 31 parliamentary seats had new incumbents.

29

The election was also interesting because it was the first time that Greenland voted as one electoral district. When Home Rule was established, the outlying districts had their own electoral districts - a system that favoured these areas. Thus four (out of five) remote districts are not represented in the new parliament whereas the capital Nuuk now has 14 seats. Turning Greenland into one electoral district does not favour remote and less populated areas, but it strengthens the process of making Greenland one nation. This has been a gradual process that has taken place over the years and it has now culminated in Greenland becoming a unified entity as shown in the relationship between parliament and the population. The same process is also to be seen in, for example, a unified price system and the liberalisation of more and more sectors of the fishing industry. The Greenland Minister of Finance, Joseph Motzfeldt characterised the process in this way:

> *"Until now there has been a trend for parliament to look into matters of local political character which has been counterproductive to the overall planning of development within our country. We have taken far too much responsibility for even very local affairs. The new election act that has unified Greenland into one electoral district will certainly motivate the national politicians to perceive issues in a broader perspective instead of promoting local politics from the parliament rostrum. This change of focus also prepares the way for our country's politicians to, in the future, put more emphasis on national, overall and structural political factors, that is legislation which is the concern of everyone and that ensures space for initiatives and ensures basic needs in social matters and health affairs and ensures a proper development of the infrastructure."*[1]

Although this electoral change should be to the advantage of the political parties, there has recently been some criticism of the lack of checks and balances between politicians in the capital Nuuk and the many party branches along the vast coast. Under the direction of the same political leaders Siumut has ruled Greenland since Home Rule was introduced more than 20 years ago, and voices are now being heard that a younger generation is to take over the leadership. The establishment of a women's party could also point in the same direction.

30

Self-government Commission

In late 1999, Greenland premier Jonathan Motzfeldt presented a self-government commission to the public and to the Danish government. The members of the commission are all prominent Greenland politicians. The commission's terms of reference strongly indicate Greenland's wish to be more independent from Denmark than the Home Rule structure makes possible:

> *"The commission will prepare a report about the possibilities to further develop self-government for Greenland within the frames of the realm based on the principles of conformity between rights and responsibilities."*[2]

After one of its first meetings the commission wrote:

> *"It is the aim, within the frames of the realm, to attain self-government to the highest degree possible. The commission is of the opinion that with regard to all areas of responsibility that can be transferred to Greenland's control it should be investigated when this can take place, and it should be investigated how responsibilities that have already been transferred can be better managed. As concerns matters that according to the [Danish] Constitution are the responsibility of the state, the commission will investigate how Greenland can attain the highest possible degree of influence."*[3]

Among those areas that the commission will look into are the future position of Greenland in relation to Denmark, foreign policy and security and the economic options for a Greenland self-governing to a greater extent than at present. Of special concern is the dependence on annual block grants from Denmark that constitute more than 50% of all public expenditure. The Commission report is expected within two years.

When Home Rule was introduced in 1979 few people anticipated that Greenland would, in many respects, develop a *de facto* self-governing system of government in such a short time. However, this same development also highlighted the limitations of the Greenland parliament and government to take autonomous decisions without getting permission from the Danish authorities. It may be the case that the Danish authorities have not intervened in most matters, but in order to develop competence and responsibility among Greenlanders as a way of achieving a locally controlled economic and cul-

tural future, the present system is seen by many as an obstacle to development.

A matter of special concern is defence and security. In the early 1950s, the northernmost inhabitants of Greenland, the Inughuit, were relocated without compensation and without their full and informed consent when the US established a large military air force base at Thule. In spite of official Danish policy not to allow nuclear weapons on Danish (and Greenland) territories, the American air force used the Thule air base for its nuclear weapon carrying aeroplanes - with the informed consent of the Danish government. Over the years, several Danish ministers have lied to the public about this matter, a fact which has added to the dissatisfaction of Greenland's Home Rule government and parliament, since they have had very little influence on decisions relating to the area annexed by the military in the early 1950s. Thus, although the base is the only gateway into northern Greenland, regular traffic is controlled by the military authorities which, for example, makes tourism in the region impossible.

Furthermore, since the Inughuit's demands for the return of part of their lost hunting territories have met with very little sympathy from the Danish authorities, this has added to the wish of the Greenland parliament and government to be able to act in matters of foreign policy, defence and security without intervention from the Danish government. 1999 was also the year when the High Court decided that the Inughuit were relocated without their full and informed consent when, following the establishment of the US Air Force Base in Thule in 1953, they were forced to move from their old settlement Uummannaq to Qaanaaq. As a result of being relocated, the hunters lost one of their most productive hunting territories. The High Court admitted that the relocation took place without proper compensation being given to the hunters for the expropriation of their hunting territories, but what collective and individual compensation was offered was very meagre in comparison to the hunters' demands. Moreover, the court ruling neither opened the way for the hunters to return to their old settlements nor did it allow them to regain lost hunting territories. The hunters brought the case against the Danish state, and dissatisfied with the High Court ruling, more than 600 descendants of those Inughuit who were relocated, have since appealed the ruling to the Supreme Court.

The Language Debate

Greenlandic is the country's first language. It is the vernacular of by far the majority of all Greenlanders, who make up 87% of the total population. By

contrast, only very few of the 13% of people who are Danish living in Greenland speak this language. Danish is the first foreign language and it is taught in schools, with many teachers speaking only Danish. The administrative language is also to a large extent Danish and if you want to progress beyond elementary school, further education very often takes place in Danish, either in Greenland or in Denmark.

When Home Rule was established in 1979, a focal ambition of Greenland's politicians was to strengthen the Greenlandic language. In many respects these efforts have been realised, not the least in the sense that Greenlanders now occupy many positions that were occupied by Danes before Home Rule. This is also reflected in the statistics which reveal that the percentage of Danes in the population has decreased from about 20% to about 13% today.

Today, however, many Greenlanders feel that the process has not gone far enough. The unemployment rate continues to be extremely high, and the widespread use of the Danish language is seen by many as an obstacle to independent development. In 1999 a heated debate took place in the Home Rule Parliament on the use of the Danish language. There is only one Danish speaking member of the parliament and there were strong calls for Greenlandic to be the only language used in parliamentary debates. When a member of parliament proposed a resolution to make Greenlandic the only language used in parliamentary debates their proposal was not adopted. However this will not be the end of the discussion.

The situation in parliament has often been confused with the general use of the Danish language in society, which is itself a complex state of affairs. There are Greenlanders who do not speak their mother tongue either fluently, or at all. But it is also a fact that to enter higher education a profound knowledge of Danish is needed. To many therefore, the debate over the position of the Greenlandic language is a matter of improving the educational system and making sure that everyone, not least the Danish minority, is taught Greenlandic better.

Social Problems

Outside Greenland, news about its people in the media has so often focused upon social problems. Greenland has one of the highest suicide rates in the world, alcohol abuse proliferates and violence seems to be widespread. However, the outside world tends to overlook those trends which run counter to the ones that are usually considered as epitomising the current situation. It is with this in mind that an incident which took place in the village of Kuummiut

in East Greenland in the autumn deserves to be mentioned. In this village of 400 people, 60 children made a public protest against their parents' alcohol abuse. Starting at one end of the small village, the demonstration proceeded to the local store where many of the adults gather every day to drink. In even this small community drinking is so severe a problem that a small institution has been opened in which children can stay during the weekends when, because of their parents' heavy drinking, they cannot remain at home.

The founding of a women's party, *Arnat partiiat*, in November can be considered in the light of such social problems or as a response to the passivity of the existing political parties when faced with these serious issues. Six out of 31 members of the Home Rule Parliament are women and one of the seven member strong government is a woman, and the creation of this new party might also be reflection of this numerical imbalance. Among the foremost aims of the women's party are to restore the integrity of families and to put greater emphasis on solving social problems, not least among young people.

Notes

1 Translated from Politica 32,1:7. Aarhus 2000.
2 Translated from the terms of reference of the Commission.
3 Translated from press release 19th of April, 2000.

RUSSIA

Legislation

In May 1999, after seven years discussion, the Federal Law "On guarantees of the indigenous peoples' rights in the Russian Federation" was adopted. The adoption of this law is the first step towards the recognition of the rights of indigenous peoples in Russia. This Law provides for the inventory of the rights of indigenous peoples for the protection of their habitat and environment, traditional lifestyle and economy, of the alternative military service, preservation and development of the traditional culture and language. It recongizes the right of indigenous communities to establish "the territorial bodies of public self-government", the right "on the voluntary basis to organize the communities of indigenous peoples... for the social, economic and cultural development, protection of the traditional habitat and the environment, lifestyle, economy and aboriginal activities". The law is of a declarative character, it does not comprise the requirements for the authorities to

34

assist indigenous communities in the realization of their rights. In the law no compensation is made for the lands utilised by the state or the private companies in traditional land use areas. It also does not provide government funding for the self-government system, cultural development, education and health protection for indigenous peoples. Therefore, there is an urgent need for measures to be taken to ensure the enforcement of the set of laws on the protection of indigenous peoples' rights for their traditional land use, development of actual self-management, the preservation of indigenous cultures and the improvement of their health.

Activities of the Russian Association of Indigenous Peoples of the North (RAIPON)

The basic trend in RAIPON's activities in 1999 was an increasingly close cooperation with 30 non-governmental organizations, i.e. regional associations of indigenous peoples of the North of Russia. These activities included: organizing educational and information conferences and seminars, joint programmes with foreign of indigenous peoples' organizations, cooperation with environmental NGOs, the youth, and government agencies in the sphere of the protection of indigenous peoples' rights. RAIPON organized and convened a Round Table with representatives of the Saami Parliament in Moscow, the international conference "Problems of traditional land use of the indigenous peoples of the North", a seminar on indigenous peoples and the environment at Sakhalin which focused on the consequences of oil and gas exploitation on the shelf. In June 1999, the Indigenous Youth Congress was held and the the Indigenous Youth Council was established. In September 1999, the 3rd Arctic Leaders Summit took place in Moscow. In December 1999, with financial support from the UNEP/GRID-Arendal and with the participation of IWGIA the first issue of the new RAIPON journal titled "World of Indigenous Peoples – Living Arctic" was printed.

The Current Situation of the Indigenous Peoples in the North

The 3rd Arctic Leaders Summit which was held in September in Moscow was dedicated to the issue of the health and environment of the Arctic indigenous peoples. Special attention was paid to the indigenous peoples of the North in Russia, who are now in a very critical situation.

The reports Ms.T.Stukolova, Russian Federation Deputy Minister of Public Health, and RAIPON Vice-President Dr. L. Abryutina have raised particular interest and concern. The statistical data cited by these authors confirmed

the critical state of the indigenous peoples of the North in Russia, who find themselves at the brink of psycological degradation and physical extinction.

During a festival in Kovran, Kamchatka (Foto: Olga Muraschko)

According to Larisa Abryutina, the main reason for the crisis faced by the indigenous peoples is the overwhelming state patrimony and paternalism policy of the past, as well as the seperation of children from their families for their education in boarding schools. These interventions transformed the indigenous peoples into helpless personalities. It resulted in the decline of psychic activity, which again is the cause of their deteriorated health.

Statistics show an increase in tuberculosis. The mortality due to this disease is as high as 40% in the Khanty-Mansiisky autonomous region. A large percentage of the indigenous population of the North also suffer from alcohol addiction. Alcohalics have become a high-risk group for suicide. The mortality rate caused by suicide in Chukotka has reached 83.8 per 100,000, while the index for Russia as a whole is 30 per 100,000.

The average life expectancy among indigenous peoples of the North is 10-15 years lower than the Russian average, and in some regions among men it is as low as 41-42 year olds.

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The population of the majority of indigenous peoples of the Russian North is decreasing. For example, the Itelmen people in Kamchatka have had a negative growth-rate of 2.1 per thousand during the last decade. According to the data of the Institute of the Indigenous Peoples of the North (the Siberian Branch of the Russian Academy of Science) of 1998, the mortality rate among Saami, Nganasan, Negidal, Aleut, Enets, Eskimo, Kumandins and Shor peoples has been higher than the birth rate. Compared to 1990, the birth rate in the indigenous peoples of the North in general has decreased by 34%, while the mortality rate has increased by 42%.

During the same period the number of employed persons among indigenous peoples of the North decreased in the agricultural sector by 45%, in industry by 43%, in construction by 68%, and in commerce, communication and transport by 32%. In many indigenous settlements relying on traditional economies, unemployment exceeds 60%. For example, in small villages in the Koryak autonomous region, predominantly inhabited by Koryak people, the unemployment rate exceeds 85%.

Unemployment and the critical state of the health and reproduction of indigenous peoples are connected with the general social and economic crisis in the country and the degradation of the natural environment, provoked by uncontrolled exploitation of natural resources. New forms of development for indigenous peoples in Russia within the existing legislation are urgently needed. Two promising approaches may be noted: Between 1997 and 1999 the ground work for the creation of the ethno-ecological area in Kamchatka was carried out. And attempts to establish biosphere reserves with traditional land use of indigenous peoples are being undertaken in the Khanty-Mansiisky region and in Yakutia.

SÁPMI

Sweden

Mineral Prospecting on Sámi Land

The Canadian company BNP World Exploration has been given a permit to prospect for minerals in an area east of the Sarek national park in Sweden. Reindeer owners, local inhabitants and environmentalists are worried. "I think it's utterly wrong," says Lennart Läntha, who lives in the small mountain village Aktse. The government authority Bergsstaten has granted it a permit to prospect for zinc, lead, copper, silver, and gold east of Sarek. The permit

37

applies to an area of 11,585 hectares. The area is in uninterrupted mountain terrain, and contains several reserves: the Sitoätno forest reserve; the Harrejávri nature reserve and; the Tjaktavárri forest reserve. The county government of Norrbotten wants to turn all of this into a single nature reserve called Ultevis. The county government describes the area as unique.

The prospecting area also contains Guorbak, one of the largest reindeer industry sites in Sweden. Here, there are grazing lands, migration routes, slaughterhouses, and housing. Around Guorbak, there are also old Sámi dwellings of great historic value. "A mine here would be a catastrophe", says Bertil Kielatis, spokesman for the Sirka Saami community. The Minerals Act allows companies to prospect for minerals just about anywhere. Only national parks and nature reserves are entirely protected. Other interests just have to yield. Only when mining becomes an issue is the case tested against other interests. However, BNP World Exploration is not yet being allowed to take its machines into what is called Europe's last wilderness. The court will have to decide whether the Bergsstaten permit was legally granted.

Adopt a Reindeer

The Sámi have a customary right to let their reindeers graze in the forests throughout the winter season without compensation to the forest owners. This right was legislated for in 1886 and is essential in order for the Sámi to continue to live from reindeer herding as the reindeer cannot survive in the treeless higher mountain regions during the winter months. This right has been challenged by private forest owners around the Swedish mountain regions of Jämtland, Härjedalen and Dalarna. They claim that the Sámi have not lived long enough in this area to claim their customary grazing rights. But reindeer herding has been taking place here for at least a few centuries. Groups of private forest owners have taken the Sámi communities to court. Since no written documentation exists, which can prove long-standing use of the land, the Sámi risk losing their customary rights. The Sámi cannot afford these legal processes - losing the first round of the court case cost them £1,000,000. All the money raised is meant to pay for the Sámi communities' legal costs in the customary law trial in Jämtland/Härjedalen (see IWGIA Indigenous Affairs No.2 p.20 1997). The foundation hopes to raise some SEK five million with the "Adopt a Reindeer" campaign, and thereby save the reindeer industry in Jämtland and Härjedalen Those wishing to adopt a reindeer may choose to pay either SEK 100, 500 or 10,000. The adoption diploma has been created by the well known Sámi artist Lars Pirak. The money can be paid to the Swedish bank account: 5243-4933 or Swedish post giro: 1958561-1 Address

'Adopt a reindeer' c/o Kjersten Valkeapää, Box 46.S-84095 Funäsdalen, Sweden.

ILO Convention 169

On Thursday May the 6th 1999 there was an information meeting about the ILO convention in Östersund. It was an event which attracted many listeners, as well as representatives from almost all of the native communities in the area. Many Swedish farmers and forest owners were very much against the ratification of ILO 169 and their stance mirrored the general attitude in Sweden. It will take another five years of hearings before Sweden decides if they will ratify ILO 169. The reason for Sweden's hesitation in proceeding with ratification is article 14, which amongst other things says: "Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession".

Lars Anders Baer, Chairman of Samiid Riikkasearvi /SSR (National Society of Swedish Sámis) and Jörgen Bohlin, Attorney for the Society told the Sámi journal Samefolket: "Sweden has got a 'report card' when it comes to national policies on native matters. The official investigation into the ILO convention has shown that the legislation and lack of action from the government have put Sweden in a situation where the country is lagging far behind in legislation for native populations, and doesn't measure up and won't get a decent mark in an international comparison."

European Parliament Supports Native Reindeer Husbandry

When Sweden became a member of the European Union there were several consequences for reindeer herding. Among other things mobile slaughterhouses were forbidden. This meant that some of the Sámi had to transport their reindeers several hundred kilometres to stationary slaughterhouses. This problem seemed to be solved when in March 1999 the European Parliament agreed to a motion to adopt the following resolution: "To investigate the possibilities of using mobile slaughterhouses to avoid the unnecessary transport of livestock and to increase economic gain." The resolution also called for the creation of a "special support for reindeer husbandry such as investments and other means to refine the products that are locally produced to create a higher degree of employment."

Lavvu in the Middle of Stockholm

A group of Swedish Sámi raised a *lavvu* (a traditional Sámi tent) on Sunday May the 16th 2000 in the middle of Stockholm. "We have learnt from the

Swedish state that you can monopolise land without respecting the landowner. That is why we monopolise a piece of land here in Stockholm for a week", said Olof T. Johansson to the Sámi paper Assu. Throughout that week the Sámis lived in the *lavvu* and told passers by about the Swedish government's encroachments onto the country's indigenous peoples, the Sámi.

Two Hundredth Anniversary of Læstadius.
On the 8th of January 2000 it was the two hundredth anniversary of the birth of Swedish Sámi priest Lars Levi Læstadius's (1800-1861). Læstadius was the founder of a Sámi revivalist movement which was called Læstadianism and which became very important for many Sámi. Læstadianism was not only a religious movement but also an ethno-political reaction against oppression and exploitation. The movement gave many Sámi hope for the future and mobilised them into struggling for social and cultural survival. The relations between Sámi and the nation state were built on an asymmetric power relationship in favour of Swedish values. Læstadianism promoted Sámi values and offered a means of remaining true to your Sámi roots, whilst at the same time remaining an equal member of society. Læstadianism spread to Norway and Finland as well as to the USA. Throughout the year 2000 Læstadius will be celebrated in different places across Sweden. It is important however to emphasise that not all Sámi are Læstadianists and that other Sámi found different ways to react against oppression and ethnocide.

Norway

Norwegian Sámi Association's General Assembly
The Norwegian Sámi Association (NSR) held its general assembly on June the 17th to 20th 1999 in Karasjok. The NSR agreed on a resolution concerning the army's practice and shooting area in Hálkavárre, Porsanger municipality. The area has been under constant enlargement since 1964. The latest development is that bombing exercises using planes are planned. There have been negotiations between the army and the reindeer herding districts, but without any agreement so far being reached. It looks as though the court will have to settle the matter. The NSR is worried that a further enlargement of the Hálkávárre shooting area will continue to reduce the breeding areas of reindeer herds, which means that reindeer herding in Finnmark will be badly affected. The NSR demands that the army stop the enlargement of Hálkavárre.

They also agreed on a resolution about the use of Sámi place names, which will be important as far as strengthening Sámi language and culture goes. With the place name law the NSR assumed that Sámi place names will be

40

equal with Norwegian ones when it comes to public signs. Language was also the centre of attention in a resolution about education that amongst other things declared: "Beside the special Sámi related education it is very important to work for stronger inputs of Sámi elements in primary schools." The general meeting requested Alta and Kautokeina municipalities to secure the fishing rights of local people in the Alta River. Private organisations have been fishing illegally, by usurping the rights of local fishermen. Apart from in a few municipalities in Finnmark, the Sámi have few possibilities to influence the decisions of the majority. It was agreed that the municipalities in Finnmark should be asked to be more aware of Sámi issues.

Reindeers Starved to Death

The reindeer herding administration in west Finnmark found 80 reindeers that had starved to death. The reindeers belonged to one herd and had starved to death during the winter grazing, according to Mikkel Ailo Gaup from the administration of reindeer herding in west Finnmark. The rain in November had caused large areas to become inaccessible to the reindeers because the grazing grounds were covered with ice.

Russia

On December the 1st and 2nd 1999 a scientific conference was held in Lovezero arranged by the Sámi Public Organisation of the Murmansk region (OOSMO). The subject of the conference was 'The Sámi Language Year 2000'. At the conference it became apparent that the possibilities of teaching Sámi during the first years of school are very good. Schoolbooks and the necessary literature exist. Furthermore once a week there is a one hour radio programme in Sámi. Unfortunately these initiatives are not enough to strengthen the Sámi language. The motivation to use Sámi is very weak. The younger generation has only a superficial knowledge of the language. The conference recommended that a language research centre should be established in Lovozero. Rules and laws should be worked out for the preservation and development of the Sámi language, and the possibility of changing it to the Latin alphabet should be investigated. It is also recommended that a programme for the preservation and development of collecting Sámi audio recordings should be worked out and that teaching in Sámi should be introduced in those oblast schools where there are many Sámi. Sámi culture suffered greatly during the forced collectivisation under Stalin, when they were forced to live in the cities. The men went as before out with the reindeers on the tundra while the women and children stayed in the cities. The children lost the opportunity to

41

socialise in their own culture and language and to experience life in the tundra. To change this situation the conference asked the co-operative "Tundra" to help to make it possible for the children to stay with their parents while they work on the tundra.

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Countries covered in this issue: Canada, USA

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NORTH AMERICA

Native North American Education: A Tool Between Tradition and Modern Technology

> *"Through the guidance of the tribal elders, Native values and traditions are being taught as the primary key to unlocking the force that will move Native peoples on the path of their own development. The elders have prophesied that by returning to traditional values, Native societies can be transformed. This transformation will then have a healing effect on our entire planet."*
>
> The Four Worlds Development Project of Lethbridge, Alberta - an organisation dedicated to individual and community wellness for Native people

The following accounts on the general situation of Indian Education today in both Canada and in the United States present the logical consequence of the article on the foundation of 'Nunavut 99'. Obviously, one of the major issues for the Inuit of the new self-governed territory is the comprehensive 'Indianisation' of the education system of indigenous peoples.

In fact "Indian Control of Indian Education" seems to be one of the prerequisites of a smooth entry of Native communities into a self-determined new millennium. In the United States for example, it is estimated that there are between 300,000 and 400,000 American Indian or Alaska Native children of school age (Butterfield, 93). Over five hundred different tribes or nations are present in this number, yet most of the time the school system ignores these various cultural differences.

However, the kind of Native education that best serves the interests of an emerging Native community - and of course of any indigenous people - has not always been the subject of unanimous agreement. But nowadays, there is a general view that Native education should fulfil the dual purpose of keeping the traditions of a rich Indian culture and art alive (mostly by oral transmission), and that the teachings of "mainstream America" are to be studied as well, so that distinct Native Nations can continue to survive in a globalised white setting. In some instances their continuing cultural survival is under constant pressure. Therefore Indian control of Indian education certainly represents one promising means of coping with living in two worlds.

Differences in Principle

One way in which traditional native people differ from mainstream white society may be their ways of dealing with their own cultural heritage, in particular the way in which they hold their traditions sacred. At the centre of their value system stand people and relationships which leads to such values as respect, community thinking, wisdom, spirituality and sense of humour. Everyday life is guided by a holistic approach to nature and one's environment. Nevertheless, the younger generations especially are knowledgeable in mainstream ways, including teaching along the lines of white education systems and using sophisticated technology.

Now some leaders and teachers fear that exposure to modern technology in the schools will result in the assimilation of young Native people into non-Native culture. But there are other voices arguing that it may be exactly technology that can be instrumental in preserving and teaching traditions. In addition, technology may even serve to educate society at large in Native ways. Computers coupled with modern telecommunications, open up new methods of education - exciting many Indian students and teachers. And these are certainly the skills crucial for the economic development of reservations, and helping Native communities leave behind marginalisation and oppression.

Technology Offers Modern Educational Tools

A few Native American school districts in the US utilise and produce modern technology-based educational tools. The Pine Ridge Reservation in South Dakota, the White Earth Reservation in Minnesota, and the Hannahville Indian Community on Michigan's Upper Peninsula have one or more schools that are truly exemplary in the way they use technology. While these schools are not typical of all Indian schools, they do show the direction in which Indian education may be heading. Some leaders are conscious of the potential that lies hidden in technological tools, nevertheless, they try and combine these modern tools with their people's history and traditions. One renowned example of such a Native leader is Oren Lyons, a respected faithkeeper of the Onondaga Nation whose ancestral lands lie in what is today upstate New York. As a chief of the Turtle clan and a college professor, Lyons does what he can to keep his people's history and traditional values alive. In the fall of 1992 before a gathering of about 2000 Native American college students in Washington D.C., he expressed his feelings about the tightrope Native people walk as they move deeper into the American educational process:

"We've always looked upon education as being a way of assimilating our people. And indeed, if you look at the law on Indian education, it says very clearly that its purpose is to assimilate the Indian people into the mainstream of American life. I've always been against assimilation. I've always been for the Nation, for the people. And so, a little warning: As you move through these times, as you take your steps, not only should you look back, but you should walk back and not make education a brain drain from your territories and from your nations. You should go back. Put your efforts back into the people. Support where you come from, because we are in perilous times. Be careful. I'm a teacher; I'm a professor at the University of Buffalo. That tells you what I think about education. I really moved into that position as a defensive measure to catch some of our people before they were totally assimilated."

Clinton's Visit to Benefit Tribal Colleges

When President Bill Clinton visited the Pine Ridge Reservation in July 1999, he encouraged his listeners to make use of their tribal college, Oglala Lakota College (OLC). The president of the tribe, Harold Salway, who shared the podium with Clinton, was a recent graduate of the college. The visit was designed to bring national attention to the poorest spot in the nation and to stimulate job creation and housing construction. According to the Washington Post Clinton was the first president since Franklin D. Roosevelt to visit an Indian reservation.

The New Market Initiatives that Clinton announced will result in several specific programmes for tribal colleges, according to Carrie Billy, executive director of the White House Initiative on Tribal Colleges and Universities. Several companies have promised substantial financial sponsorship for educational purposes. For example, Microsoft will donate $300,000 worth of computer software to the Oglala Lakota College.

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Ecocide in Native North America

> *"The coal is the liver of the earth. Human beings don't realise what's happening with all these corporations. It's being done just for the money. The mines are destroying everything for the money. This is being done to native peoples everywhere. The earth is our mother. The earth hurts. The planet is in danger...I will die fighting this law. I am doing it for my children and grandchildren and your children and their children. It is everybody's future."*
>
> Roberta Blackgoat, Dineh elder (Navajo) and activist

Even at the start of the new millennium the situation has not yet changed. One of the 'hottest issues' in Native America since the days of colonisation has been the exploitation of resources on indigenous land. Many aspects and interests are intertwined when dealing with natural resources and Native Nations. Certainly the issue of land rights (and self-determination) is the first that needs to be looked at, followed by the problem of reversing the destructive effects of gold, coal, uranium and oil mining, etc. The clear cutting of thousands of acres of pristine forests in Canada has led to a new name being coined for the country, the 'Brasil of the North'. Also, in most areas, the question of co-determination and fair compensation for resources extracted by mainly transnational companies has not yet been resolved. And this is quite apart from the question of principle whether the world today would not be much better advised if exploitation of resources was examined from a global perspective, in order to work out our global needs and secure the survival of the world's community of both native and non-native peoples.

Instead economic constraints, the need to create jobs, and political power games between 'traditional' and 'progressive' wings of tribal governments, provincial/state governments and industrial interests very often leave it to a handful of multinational corporations to decide on the ultimate destruction of land that is not only ancestral to many Native Americans but also sacred in the true sense of the word. Yet such companies only care about their own shareholders' future and not about the future of the global community. It may be one of the ironies of American history that after the defeat of the Indian peoples they were very often relocated to barren lands that seemed of no interest to white society. Yet to mention just one example, approximately 70% of uranium ore lies in indigenous lands that belong for the most part to North American Indians and Aborigines in Australia. Interestingly enough,

today's spiritual and traditional leaders keep reminding society at large what many past prophesies had to say about environmental destruction. Just to mention the most popular one among Europeans - the Hopi Prophecy - that tells of the 'Gourd of ashes' falling down from the sky, symbolising the explosion of the nuclear bomb in Japan. These 'warning signals' only underline the necessity to turn to a policy of complete sustainability in everything we do to 'Mother Earth'.

Ironies of Modern Times

Another and probably one of the cruellest ironies is the fact that Native people are among the first victims of the ongoing ecocide in today's polluted world. Yet they have lived in ecological harmony with the earth for thousands of years. This has been shown by their sustainable practices that are based on the interdependence of human beings and nature. But the last 50 years have seen more irreparable transformations of the world, than occurred in the preceding two thousand years. However the ecocide that we are witnessing today started with industrialisation and the waves of white settlement across the American continent. Today it is reflected in the continuing indifference of corporate and government interests to the survival of Native Peoples and their cultures. A final irony of the times is the fact that indigenous peoples were not only made to suffer under the radioactive fallout of uranium mining and nuclear tests (see the Yearbook 1997/98 for the case of the Western Shoshone and the Dineh), but as the nuclear fuel rods are burned out in the Western power plants, they are 'returned' to the lands of indigenous people to be dumped as radioactive nuclear waste - transferring this hazardous legacy to often sacred grounds in highly vulnerable areas. Hence the Yucca Mountains of Nevada (sacred to the Western Shoshone) have been targeted to serve as the American dump for the waste of 110 nuclear power plants that have so far produced more than 40,000 tons of burned fuel rods. And in Canada, the Assembly of First Nations' chief Phil Fontaine is presently fighting federal government plans to deposit nuclear waste on Indian land in the Canadian Shield. (In Northern Saskatchewan Canada has some of the largest uranium mines in the world and is the biggest uranium exporter supplying most of the needs of the European nuclear markets). For nine years a government commission investigated the region and, in 1999 concluded that it constituted the best area for a final deposit. Thus the Canadian Shield not only is a rich 'warehouse' of mineral resources but should now also serve as the nation's dumping ground to get rid of the waste from the stripped mines. Phil Fontaine refers in particular to the Dene of Deline who work in the uranium mines.

Many of the workers have suffered premature deaths from cancer and their lake, which is close to the mine, has been radioactively contaminated. Now the government is once again luring them with offers of money. The National Chief is using his title as representative of Canada's treaty Indians to fight for their inherent rights as keepers of the land.

The 'Vampire Project' (HUGO)

The latest development is that even human genomes are now being considered an exploitable resource that can be mapped, processed, patented and subjected to intellectual property rights by modern biotech companies that have invested billions of dollars in research and development to 'suck out' the essence of life from mainly indigenous peoples to recreate their unique genetic set-up for commercial purposes. The Human Genome Diversity Project, an informal consortium of universities and scientists in North America and Europe, has launched a campaign to take blood, tissue and hair samples from hundreds of so-called 'endangered' and unique human communities scattered across the globe. Among those targeted for DNA sampling from North America are the Deleware and Sarcee (each numbering around 600). The Project is supported by the US government's National Institute of Health, and linked to the multinational, multi-billion dollar initiative to map the human genetic structure known as HUGO - the Human Genome Organization.

No wonder that this global project is called 'the Vampire project' by those who it affects. Here again, the irony is cruel. It will no longer matter if the survival of a people is threatened, as industrial interests would not care so long as they have secured the necessary genetic material to reproduce the distinct features of that people. The material itself may be patentable even without further research.

It seems almost too late, but at least indigenous peoples have finally come up with actions against the patenting of life. In 1999 they issued a joint statement on the trade related aspects of intellectual property rights (TRIPS) in the WTO agreement, and pushed the World Health Organization to call for a special conference to present their concerns in Geneva. In particular, they want to draw attention to the inherent conflict between white and native property views. Indigenous knowledge and cultural heritage are usually collectively evolved and owned and cannot be traded. *Nobody can own what exists in nature except nature herself. A human being cannot own its own mother. Humankind is part of Mother Nature. We have created nothing and so we can in no way claim to be the owner of what does not belong to us.*

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CANADA

The Innu Nation

The end of the 20th century was marked by deep sadness and introspection among many Innu, as the communities of Sheshatshiu and Utshimassiu tried to contend with a growing sense of alienation and despair among their youth.

For the second time in a decade, these problems became a focus for the world media. A report entitled *'Canada's Tibet'* by Survival International, which critically examined the Innu situation and questioned Canada's much-lauded human rights record and international reputation, became a focal point for an international examination of the problems faced by the Innu. Tragically, the report's launch last September in London by Innu spokesperson John-Pierre Ashini was at once overshadowed and underscored by the news of his son's suicide, which occurred only hours before the launch.

At the time, Innu Nation President Peter Penashue was quoted to say:

> *"It is true to say that Canada is killing the Innu. This country does not make it easy for us to live as a people. Governments create all kinds of obstacles. We don't control our schools or our social services - we don't control any of the programs in our communities. If you look at the cumulative effects of centralization, the policies of control and*

putting people through social assistance, the net effect is that our people are dying."

In late November 1999 a breakthrough of sorts was achieved towards self-government, as the governments of Canada and Newfoundland entered into an agreement with the Innu Nation to transfer control of education and policing to the Band Council in each community. This agreement was intended to provide some interim measures to deal with some of the serious problems facing the youth in each community, as a step towards full control over all community services in a self-government agreement.

There were also a number of other significant developments in 1999 and early 2000:

In March, Innu activist Elizabeth (Tshankuesh) Penashue organized a walk for Innu women to the military bombing range near Minai-nipi. The purpose of the walk, which was done using traditional snowshoes and tobogans following a traditional Innu travel route, was to demonstrate that Innu people are still strong and committed to the protection of their land. The Walk has become an annual event, and attracts women from a number of Innu communities.

In April, the environmental assessment panel established to review the proposed Voisey's Bay mine development ruled that the project could proceed, subject to several major conditions, including the resolution of Innu and Inuit land rights agreement and the conclusion of impact-benefits agreements between Inco and the Innu and Inuit. These recommendations were welcomed by the Innu Nation as evidence that the panel had listened carefully to the Innu people. However, both Canada and Newfoundland rejected the recommendations, and proceeded to give the development a green light to proceed. This decision is now being challenged by the Innu in the Canadian Federal Court.

In June, the Italian air force announced that it was entering into an agreement with Canada and the other Allied countries conducting low-level military flight training over Innu territory. The Italians have recently banned low-level flights in their own country, following a tragic accident in which an American jet clipped the cable of a gondola, causing numerous deaths. The Innu Nation has formally complained to the Italian government, and has asked for an explanation of why the Italians believe that it is acceptable for the Innu to have to live with such risks.

In December, Innu leaders from both Labrador and Quebec were invited to participate in a meeting between Newfoundland Premier Brian Tobin and Québec Premier Lucien Bouchard on the proposed Lower Churchill hydro development. This massive project, one of the largest ever proposed, could begin construction in 2003. The meeting with the Premiers was widely viewed as a recognition by the two governments that the Innu must play a central role in such a development.

In January of 2000, the massive Voisey's Bay project was put on indefinite hold by Inco, following a breakdown in negotiations with the Newfoundland government. The stalemate was applauded by the Innu Nation as an opportunity for the Innu to make progress on land rights, healing and social development prior to any major developments in their territory.

Work continues on many fronts, and for the Innu, the dream of achieving a just land rights settlement, control over their lives, and an equitable stake in the benefits that are being derived from the development of their territory is one that they will continue to fight for.

On Nunavut and Nunavik see section on the Arctic.

UNITED STATES

> *"It is time we all faced the truth of the hardships ahead of us. It is time to investigate the one form of genocide which threatens us all. It is the environmental and human destruction that American industrial greed is bringing, not only to Indian Nations, but to the other nations of the world."*
> Leonard Peltier

The words of this renowned Anishinabe-Lakota political prisoner express the essence of the situation of indigenous peoples in general. Unfortunately updates on many cases that have been covered in previous issues of the *Yearbook* would not reveal any major changes that would suggest a promising new direction of justice and self-determination. Instead it is much more the case that many indigenous nations of the North American continent have to keep struggling against unjust structures. Therefore the following accounts should reflect those issues that exemplify the living conditions of Native Americans living in the US, and First Nation inhabitants living in Canada.

Leonard Peltier: Reviewed For Parole and Refused - Clinton His Last Chance

Readers of the *Yearbook* remember the case of Leonard Peltier, who was originally convicted for the murders of two FBI agents on the Pine Ridge Indian Reservation. However documents that had been formerly withheld and which supported Peltier's innocence would later force the prosecution to admit that the courts could not prove who actually killed the agents. Despite this fact, Peltier has remained in prison for 24 years. Amnesty International considers him to be a political prisoner who should be immediately released.

After years of intensive campaigning, the US based Leonard Peltier Defense Committee called upon the international community of supporters to once more intensify the campaigns and focus in December 1999, when continuous actions and campaigns in Washington D.C. and other cities in the States and in Europe should have led President Bill Clinton to finally consider his case and grant him executive clemency for Christmas. However the pressure from anti-Peltier interest groups seemed to be so high that even though Bill Clinton knew he could not be re-elected, he still did not dare to consider the issue. Instead he left it to Justice Minister Janet Reno and her staff to try and keep Peltier's lawyers and activists from occupying government grounds in Washington. In the past, the FBI's anti-Peltier position has been strikingly obvious with advertisement campaigns in major newspapers against his release. Furthermore the FBI is working in the interests of multinational energy companies who wish to keep all that happened on Pine Ridge covered up *(for more information contact: NatAimer@aol.com)*. It is certainly not wrong to speak about corrupt dealings within government bodies that have kept Leonard locked up for over 24 years. No wonder he is called the "symbol of Indian resistance". The next step for Peltier's supporters was to lobby for the *parole hearing* scheduled for June the 12th 2000.

June the 12th 2000: Parole Hearing for Peltier

On June the 12th, a parole examiner was to hear the case of Leonard Peltier who is being held at Leavenworth Federal Penitentiary in Kansas, and was to make an initial recommendation as to whether or not the Parole Commission should grant him a date to be released. On the one hand things looked pretty positive since, for the first time, Amnesty International was to attend the hearing in person. The National Council of Churches, the Assembly of First Nations (AFN) and the National Congress of American Indians (NCAI) were also represented. Legal counsel included attorneys Jennifer Harbury, Carl Nadler, and former US Attorney General Ramsey Clark. Jean Ann Day, survivor of

the Pine Ridge 'reign of terror' also testified. And during the previous year several delegations had met with the Justice Department to urge the US to grant Leonard Peltier his freedom.

But on the other hand the Parole Commission had never treated Leonard's case fairly. Peltier underwent his first full parole hearing in 1993, at which point the Parole Commission refused to consider his release for a period of time far beyond that which its guidelines recommend. In spite of the fact that the Commission is required to hold subsequent hearings every two years in order to determine whether there are any circumstances that warrant a change in its original decision, it set his next full hearing for the year 2008. In the meantime it "recognises that the prosecution has conceded the lack of any direct evidence that [Peltier] personally participated in the executions of the two FBI agents." During his 24 years of incarceration Leonard Peltier has maintained a good behaviour record and has been eligible for release for over nine years.

US-Parole Examiner Refuses to Consider New Evidence

Yet the unthinkable happened. Although Peltier's representatives told the Parole Examiner that his health, his serious family needs and his positive programme achievements were all reasons for the Commission to reconsider their refusal of parole, he did not listen to the fact that the Commission had yet to justify their reasons for denying his release. He refused to read a report from Dr Peter Basch who determined that problems with Peltier's health could result in "recurrent central retinal vein occlusion, stroke, heart disease, and kidney failure." Nor did he show an interest in the eight parole plans from various Native organisations and tribes offering Peltier housing and employment. And he refused to accept or consider the 10,000 letters collected over the last three months from US citizens, human rights organisations, luminaries and members of the international community supporting Peltier's release.

Without deliberating over or considering any of the documents presented, the parole examiner recommended that Peltier's sentence be continued until his next full parole hearing in 2008. Those in attendance reported that the examiner wrote out the refusal while the presentation was still being made. Such behaviour needs to be clearly defined as an open affront to basic principles of human rights and dignity. Peltier did not receive a serious or fair hearing at his parole request, and this is yet one more sad confirmation of how his case can easily serve as an example of how indigenous peoples are treated in general. Peltier's defence counsel immediately declared that he would continue to protest against the Parole Commission's refusal of parole in the fed-

eral court. Now supporters have to continue efforts to gain Peltier's release through the granting of Executive Clemency.

Executive Clemency

In 1993 attorney Ramsey Clark filed for Executive Clemency on Leonard's case. Executive Clemency is a power that only the president holds allowing him to grant the release of any prisoner. Normally a petition for clemency goes through a process at the Justice Department before it is put on the president's desk. On average it takes six to nine months for a clemency petition to be reviewed and two years for the president to either deny or grant it. It has been over seven years since the LPDC filed their request, and they have not yet received a response. The only response ever received from Clinton is a form letter stating that the Department of Justice is still reviewing the request. It is now known that the Clinton administration has not yet acted upon letters and resolutions from foreign parliaments, Native Nations, human rights organisations, numerous prestigious people, and millions of signatures and letters.

Canadian Extradition Report

One of the most controversial aspects of the case of Leonard Peltier is the manner in which he was extradited from Canada after his arrest in 1976. At the time of his arrest, the US government did not have enough evidence against him to extradite him from Canada for the murders of the agents. For this reason the FBI, in conjunction with Canadian prosecutor Bob Halprin, obtained affidavits signed by Myrtle Poor Bear, a Native American woman known to have serious mental problems. She claimed to have been Peltier's girlfriend at the time, and to have been present during the shoot out and to have witnessed the murders. But she later confessed she had given the false statement after being pressured and terrorised by FBI agents. A third Poor Bear affidavit directly contradicting those submitted to the courts was withheld by the FBI and would later be uncovered before Peltier went to trial.

According to FBI documents Halprin knew of the existence of this affidavit and he knowingly withheld it during the extradition proceedings. Yet the complete Poor Bear incident was withheld from the jury during Peltier's trial. No action has ever been taken by either the Canadian or the US governments to rectify this blatant abuse of power by the FBI. To this day the Canadian government continues to co-operate with the US government in obstructing justice for Leonard Peltier.

In 1995, as a result of mounting pressure from Members of Parliament, the Royal Commission of Aboriginal Peoples, the Canadian Supreme Court and Canadian citizens, the Canadian Minister of Justice, Allan Rock, announced that he would conduct an official review of the extradition of Leonard Peltier. When doing so, he asked MP Warren Allmand to review the documents related to the extradition and make a private recommendation to him. In a confidential letter to Minister Rock, Allmand stated that the extradition was fraudulent. But Minister Rock changed offices, and never completed his review of the extradition.

More recently, Peltier supporters, labour unions, First Nations, and Canadian MPs began pressuring Allan Rock's successor, Minister of Justice Anne Mc Lellan, to finish the review. On October the 15th 1999, after stating that she had been waiting for the US government's permission before proceeding, Ms Mc Lellan released her results. Her reported results constituted a lazy acceptance of the Canadian and US governments' positions, rather than an actual review that resulted in any responsible scrutiny of the proceedings. Mc Lellan found that the extradition proceedings were legal and based her conclusion on prior court proceedings despite the fact that it was the courts themselves that suggested that a governmental review be carried out, because it was a matter regarding nation to nation relationships that they could not act upon. Outrageously, the minister refused to confront the real issues at hand.

On November the 1st 1999 former MP Warren Allmand, publicly released his previously confidential letter which he had submitted to Allan Rock in 1995 as well as his own response to Mc Lellan's findings. In his response he argued that there is no way Mc Lellan could have determined that there was enough evidence to extradite Peltier without the Poor Bear affidavits. In his letter to Allan Rock he recommended that the Minister of Justice make a formal plea to the United States to either release Peltier through a grant of Executive Clemency or to grant him a new trial. Allmand requested that at the very least he order an independent review, either by a learned counsel or by a retired judge. Mc Lellan neglected to even consider Mr Allmand's advice and she did not post his letter as part of the documents relating to the extradition on her web site. Apparently such blatant governmental misconduct can occur without any rectification.

Native Nations Show Support

For the first time, the Assembly of First Nations (AFN) of Canada and the NCAI of the United States held a joint meeting in Vancouver in honour of Tecumseh's vision. During the historical conference held on July the 21st to

23rd, both organisations passed unanimous resolutions calling for the release of Leonard Peltier. On November the 12th 1999 both organisations met with Janet Reno's office and made a strong plea for clemency for Peltier. On January the 18th 2000 the National Chief of the AFN, Phil Fontaine, his delegation, and Ernie Stevens of the NCAI met with Leonard Peltier in prison to plan the strategy for his release. Together the two organisations represent the majority of Native Nations in the US and Canada.

International Support

The international campaign is an important element in the movement to free Leonard Peltier and as his case gains notoriety, the international campaign continues to grow. After the European Parliament's second resolution in February 1999 insisting that Peltier be freed, other Parliaments have followed, such as those from Belgium and Italy. Both the British and French Parliaments have introduced motions calling for President Clinton to release Leonard Peltier. In April 1999 Danielle Mitterrand, the former first lady of France and president of a human rights organisation, came to the US on a fact-finding mission on behalf of Peltier. She visited him in prison and met with government officials on his behalf.

During the same month, Archbishop Desmond Tutu made a public statement and referred to his case as a "blot on the judicial system of this country that ought to be corrected as quickly as possible." In September various support groups called on their members to join a birthday-card campaign for Leonard who turned 55 on September the 12th 1999. Birthday cards were sent to Leavenworth thereby making international solidarity visible to the US authorities. Additionally, in a letter dated March the 4th 2000, the Dalai Lama renewed his call for Leonard's release, which asked for him to be "immediately and unconditionally released".

The LPDC attended the last session of the United Nations Commissions on Human Rights in Geneva. Several NGOs made oral and written interventions about the human rights violations involved in the Peltier case. During the session the government of Cuba also condemned the imprisonment of and the denial of medical care to Leonard Peltier. The UN-Special Rapporteur on Torture welcomed the transfer of Leonard Peltier to the Mayo Clinic for proper treatment of his jaw, but he also expressed concern about the misinformation he was given by the United States government and he announced his plans to follow through with investigations. He also expressed his own strong support for Peltier's release.

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Letters supporting the minister's response to the Allmand-Report should be sent to:
The Honorable Anne McLellan,
Minister of Justice,
Confederation Building Room 448,
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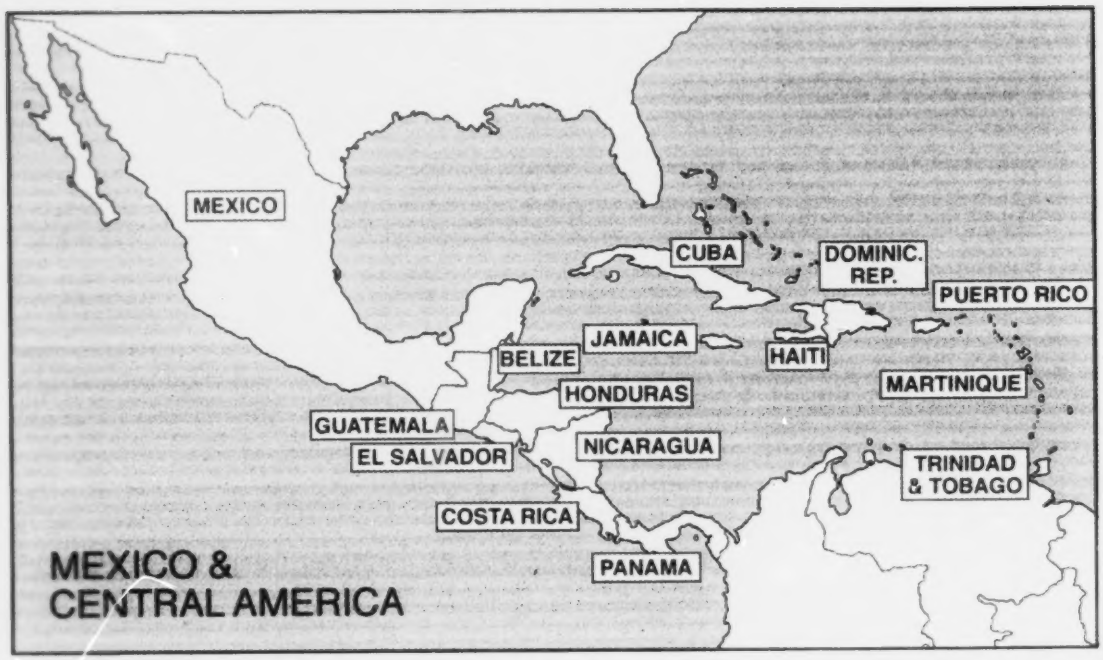
Ontario, Canada KIA OA6.

Letters supporting the demand for presidential clemency should be sent to:
President William Jefferson Clinton,
The White House,
1600 Pennsylvania Avenue,
Washington, D.C. 20500,
USA.
President@whitehouse.gov

Sources
Leonard Peltier Defense Committees of USA, Canada.
INCOMINDIOS Newsletter, LP-Action Campaigns.



Countries covered in this issue: Mexico,Guatemala, Nicaragua, Panama

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MEXICO & CENTRAL AMERICA

MEXICO

During 1999 and the first quarter of 2000, indigenous issues in Mexico were largely displaced by issues of national interest. The prolonged student strike at the National Autonomous University of Mexico (UNAM) and electoral debates between the political parties and their presidential candidates took precedence in the media. Nevertheless, indigenous peoples regained a proactive role with the visits of a number of international human rights observer missions to Mexico, which noted the precarious situation of justice in the country, in particular in the states of Guerrero, Oaxaca and Chiapas.

During 1999, Mexico received visits from a number of senior officials of the United Nations. In meetings held in Geneva, Switzerland within the framework of the Working Group on Indigenous Populations, the country's indigenous leaders had insistently been calling for the UN to visit Mexico. The Special Rapporteur for Extrajudicial Executions, Ms. Asma Jahangir, thus visited Mexico in July. In November, it was the turn of Ms. Mary Robinson, UN High Commissioner for Human Rights, and in February 2000 that of, Ms. Erika Daes, President of the Working Group on Indigenous Populations. In the previous November, a large group of observers from the International Civil Human Rights Observation Commission (CCIODH) had arrived. Deputies from the European Parliament, along with civil servants and government ambassadors from America and Europe, also visited Chiapas during 1999 and the first quarter of 2000.

The Government's Position Regarding Observation Missions

Since 1998, the Mexican government has tightened regulations governing the entry of foreigners into the country. It has thus managed to prevent visitors with tourist visas from reaching the Zapatista communities, as well as those controlled by the Army. In general, the observation missions that have arrived since that time have found themselves restricted and rigorously monitored. Whilst the government has stated that the presence of senior UN officials is welcome and has expressed its willingness to collaborate with the UN system, noting that it (the government) was already taking measures to correct human rights violations, it could not avoid showing its irritation and annoyance at the signals sent out by the Reports. These reports noted differ-

ences between the government's claimed actions and what the observers witnessed on the ground.

At the beginning of the year 2000, the Report on Extrajudicial, Summary and Arbitrary Executions was made publicly known, presented by the Rapporteur, Asma Jahangir, in fulfilment of resolution 1999/35 of the Commission on Human Rights (UNHCHR), dated 25th November 1999. Although the report recognises the difficulties the Mexican government is facing and the efforts it is making to undertake corrective action, it also notes that situations persist which are causing violations and vulnerability of human rights in Mexico. The Special Rapporteur, noted that *"..in spite of the efforts undertaken and commitments made (by the government of Mexico), the situation with regard to human rights continues to be a cause for national and international concern"*.

The UNHCHR Reports, disseminated by the Fray Bartolomé de las Casas Centre for Human Rights (CDHFBC, April 2000), noted that there was a total ineffectiveness in the judicial system in Mexico and a lack of transparency in the functioning of State institutions, affecting the whole country and its population. It also mentioned serious misconduct on the part of public prosecutors and judges and selective impunity of those responsible for human rights violations, since they were neither investigated nor the senior public officials responsible punished. What is more, officials in charge of ensuring that the law was fulfilled had, in a deliberate and premeditated way, used excessive and disproportionate force culminating in several extrajudicial executions and violating their Code of Conduct.

In the same area of concern, the High Commissioner even *"..showed her bewilderment at the enormous distance existing between the Government's declared actions and the complaints of human rights violations to be found in the reports submitted by Rapporteur Asma Jahangir and non-governmental organisations and observed in various field visits to places where the population's rights had been affected"*. Faced with such opinions, the Mexican government's reaction was to discredit the Rapporteur's report in which *"she had exceeded her mandate"*, stating that her report ignored the measures being taken by the government (CDHFBC, April 2000).

The government's double discourse regarding the human rights situation was also perceived by the European parliamentarians when they visited Chiapas. Their interviews with the different players involved demonstrated that there were contradictory versions of the facts, leading them to wonder precisely who was telling the truth. Particular concern was shown towards

complaints regarding the existence of presumed paramilitary groups who were violating human rights and the rule of law. The European parliamentarians said that the validity of the rule of law and human rights were commitments that the government of Mexico had assumed when it signed the free trade agreement with the European Union (La Foja Coleta newspaper, 30th March, 2000). Meanwhile, the CCIODH held a meeting with members of COCOPA in which it mentioned that it perceived that a low intensity war was being carried out against the Zapatistas in Chiapas.

It has to be noted, however, that not all government observers saw the Mexican reality in the same light. The Swedish Ambassador, Ehnneom Palmquist, who spent two days in the Altos de Chiapas region, subsequently met with government officials and human rights bodies and said, *"one thing I have been able to see is that there are no signs of conflict"*. (La Foja Coleta newspaper, 26th May 1999) For his part, the British Ambassador to Mexico, Adrian Thorpe, said that during his stay in Chiapas he had observed no, *"...cases of conflict, but there are difficulties between different groups in Chiapas"* (La Foja Coleta newspaper, 24th March 2000). Jeffrey Davidow, US Ambassador to Mexico, visited Chiapas in April 2000, only days after the public appearance of a new guerrilla group in Mexico City. He stated that he considered the guerrillas of this organisation to be of no great importance. He said that, *"Mexico is heavily involved in a broad and strong democratic process and it is this that defines it, more than any minor guerrilla group that may exist"* (La Foja Coleta newspaper,25th April 2000).

Following the impact the Acteal massacre had on world opinion and the severe questioning the Mexican government received from abroad, Mexican ambassadors have been trying to improve their government's image. In spite of the quality of reports and the significant efforts made by senior UN officials to make known the Mexican reality with regard to human rights, it is clear that the Mexican government has recovered a certain amount of credibility with some governments. This has led it to relax enough to respond in form but not in content to the recommendations. This pattern of behaviour can be seen in the government's reaction regarding the recurrent issue of "paramilitaries", mentioned in all the reports.

The government accepted the presumed existence of "civil armed groups" and agreed to initiate an inquiry into the issue. To this end, on 17th April 2000, the *"Special Unit to Deal with Crimes Committed by Probable Civil Armed Groups"* was formed, as a substitute for the *"Special Prosecutor for Crimes Committed in the Municipality of Chenalhó"*, reporting to the General Prosecutor of the Republic. Days earlier, the State governor had tried to lower the

profile of the federal decision even further and bring the inquiry under his control, announcing on 10th April, that his government would launch a *"crusade against the armed groups operating in the area"* for which he urged the Congress of the Union to approve the proposed *"Law of Amnesty for the Disarming of Civil Armed Groups"*, which had been sent to the Congress of the Union two years previously.

In the opinion of some human rights organisations, these measures are insufficient and they are demanding that - given the gravity of the problem - the crime of *"paramilitary operations"* be specified in federal legislation and the corresponding criminal codes in order to punish and prevent the actions of armed groups. This has already been done in other countries, such as Colombia, where the same problem persists.

The Indigenous Movement in the Electoral Climate

Another agreement contained in the San Andrés Accords and that was signed by the parties, including the deputies of the Commission for Concord and Pacification (COCOPA), was a commitment to promote legal reforms that would enable just and fitting indigenous representation in congresses, both local and national, without the necessary mediation of political parties. Four years on, this agreement has still not been fulfilled. The political parties still hold a monopoly over political representation. Indigenous people can sit in Congress only if they are a member of a political party. Given the current climate, the party bureaucracies have been left with virtually all the candidacies in their hands, and they have shut themselves off from any possible alliances with civil society, including indigenous people. A few days prior to the closure of the period for legal registration of candidates, it was clear that no political party had guaranteed candidates for the indigenous movement.

This is a serious situation for the future progress of indigenous people's rights. Since 1988, the indigenous movement has been constantly represented in the Congress of the Union, particularly through the Party of the Democratic Revolution (PRD). It was not by chance that Mexico adhered to ILO Convention No. 169 in 1989 and that article 4 of the Constitution was rewritten around the same time in order to incorporate recognition of indigenous rights. Since then, despite some ups and downs (due largely to individuals), the indigenous movement has established an indigenous legislative agenda in the Congress of the Union. Various initiatives have been instigated, such as the construction of a legislative proposal around the establishment of a System of Pluriethnic Regional Autonomy, known as the National Indigenous Plural Assembly for Autonomy (ANIPA). This was possible, at least in part,

because of the support indigenous deputies gave to the initiative. Things have now changed: the parties have lost interest in indigenous issues and, alongside this, the indigenous movement has become fragmented and is now in a period of decline.

Although the discourse of the PRD candidates continues to abound with praise for the culture of the "Indians of the Pyramids" and lamentations regarding indigenous poverty and exclusion, their proposed solutions do not include recognition of the right to indigenous self-representation. More serious still is the fact that by not guaranteeing representation of the indigenous movement in their lists of candidates, this political party is violating its own statutes. At its last Congress, the PRD agreed that at least 10% of legislative seats should be occupied by indigenous representatives.

Unfortunately, in practice, the proposals of the PRD - a party that defines itself as being on the political Left - lag behind even the indigenist actions currently being implemented by the government party, the PRI (the Institutional Revolutionary Party). Things are no better on the Right of the spectrum. The conservative National Action Party (PAN) ignores indigenous specificity, preferring to emphasise the majesty of their pyramids and the beauty of their art, for which reason the PAN candidate has announced that if he is elected President, the office dealing with indigenous issues will be relocated to the Museum of Fine Art!

Like the rest of the candidates, this party's perspective is dominated by a marginalist view of indigenous peoples. The PAN candidate considers that, in reality, indigenous demands are threefold. He has stated that all indigenous people aspire to having "*vocho, tele y changarro*". Meaning that, in his view, the indigenous struggle can be reduced to a goal of three material items: a small Volkswagen car, a television and a corner grocery store. He advocates a programme of job creation by which to achieve this goal. Other smaller parties, such as the Environmental Greens, have promoted events in which indigenous issues have been treated with some importance. Nonetheless, such interest has not translated into a policy that guarantees indigenous self-representation in the legislative arena.

As things stand, the outlook is that in the LVIII Legislature of the Congress of the Union and the Senate of the Republic (2000-2003) the indigenous movement will have no representation.

The Situation in Chiapas

Throughout the period in question, the situation in Chiapas was characterised by a repositioning of the players, in which the federal and State governments

took the lead in initiatives and pushed the EZLN into a virtual corner, where it now survives surrounded by military forces and harassed by the civil indigenous groups who are its neighbours and opponents. The new governmental strategy has consisted of strengthening these groups, and this has occurred in such a way that the conflict has changed direction and has acquired the form of a virtual *indigenous civil war*, composed of internal confrontations encouraged within the framework of a low intensity war. In Chiapas, the conflicts causing the most deaths and imprisonments have not been confrontations with the police/military forces but intracommunity confrontations. This strategy on the part of the government uses multiple means. Both the distribution of money under the cover of "production projects", along with military advice to these groups and a supply of arms, were clearly visible at Acteal.

However, complementary to these actions have been the government initiatives claiming to "fulfil" the San Andrés Accords in a unilateral manner. The most notable actions have been an ambitious programme of remunicipalisation, which includes the creation of some thirty new municipalities superimposed exactly on top of the Zapatista rebel municipalities. In July 1999, the first seven new municipalities began functioning, namely: Aldama, Santiago el Pinar, Benemérito de las Américas, Marqués de Comillas, Maravilla Tenejapa, San Andrés Duraznal and Montecristo de Guerrero. These can be added to the 111 that are already in existence (see annexed map). The government is now making progress with the process of remunicipalisation and during 2000 and 2001 it is expected to inaugurate another 15.

This programme has been supported by a strong strategy of introducing services and infrastructure in response to requests from the communities who, for decades, have had their demands ignored. Roads, schools and hospitals are now being built in the conflict zones through the remunicipalisation programme. What is more, the most loyal town tends to "win" the seat of the municipal centre, which means that they are additionally provided with a public square, a town hall and a building for the "Courts of Justice and Indigenous Conciliation", amongst other benefits.

For decades these have been the most felt needs of the people who, disappointed by government indifference, decided to opt for the armed option. Now, many of their demands are being met through a counterinsurgency strategy. For both the Remunicipalisation Programme and the accompanying infrastructure and development are clearly in keeping with a counterinsurgency strategy. The federal and State governments are acting unilaterally, excluding the EZLN, although such a proposal for remunicipalisation had been included as a commitment by the parties to the San Andrés Accords. Faced with the

Zapatista absence, the government generally argues that the EZLN should get involved in the work *now* if it does not want to be left out. Meanwhile, the EZLN refuses, demanding that the signing of peace should first be pursued before establishing new municipalities.

It is clear that with such actions the government is implementing a strategy that seeks to weaken the Zapatistas and achieve their surrender. Its actions are not in line with a desire to seek dialogue, as required by the Law of Concord and Pacification of 1995 and the San Andrés Accords of 1996.

As for the EZLN, its actions have been largely undertaken and its presence largely made known through its autonomous municipalities, which survive weakened because important segments of its members have been attracted by the government strategy described above. The rebel municipalities continue to undertake *de facto* activities that challenge the Mexican State and its institutions. Of significance amongst the actions undertaken during the period in question was the decision of some forty Zapatista communities to close their classrooms and expel 140 indigenous teachers from the State sector from their communities, substituting them with promoters appointed by the communities themselves and establishing "schools in resistance", as had already begun in Oventic, Larráinzar. In the same way, during August and September, members of the EZLN, their support base and UNAM students who were accompanying them, prevented the company constructing the stretch of road from Las Tacitas to the Amador Hernández community from continuing its work, even burning their machinery. This road was due to cross through the forest. The Zapatistas consider the road to have a clear military aim whilst for non-Zapatistas it constitutes a benefit that has been requested for years. The issue of this road has held the population in a situation of constant tension.

The EZLN also undertook a number of mobilisations. In November 1999, Zapatistas from the municipality of Cancuc held a march to demand that the government fulfil the San Andrés Accords. More than 600 Tzeltzals held a sit-in for three hours in front of the municipal palace, located in the Altos de Chiapas. They also scrawled graffiti on the building in support of their demand. Fulfilment of the San Andrés Accords is the leitmotif that mobilises both the civil indigenous movement and the Zapatista indigenous movement. On 10th April 2000, in San Andrés Larráinzar, a group of around 500 indigenous EZLN supporters gathered to commemorate the 81st anniversary of the death of Emiliano Zapata and the first anniversary of the recapture of the municipal palace offices, now controlled by the Zapatistas. This date was

66

commemorated in other Aguascalientes rebel communities, who once again showed themselves and mobilised to remind people that "we're still here".

Apart from the EZLN, other indigenous organisations were also active. The defence of cultural heritage and indigenous knowledge took on greater significance during this period. The *State Council of Traditional Indigenous Birth Attendants and Doctors of Chiapas*, made up of eleven regional indigenous organisations, mobilised to denounce (with support from the international organisation, RAFI), and demand the suspension of activities in, a programme of bioprospecting in the Mayan area of Chiapas, funded by the Government of the United States to the tune of 2.5 million dollars. The project is managed by the University of Georgia, in collaboration with the *Colegio de la Frontera Sur* (ECOSUR) research institute in Mexico and the biotechnology company Molecular Nature Limited, based in Wales in the United Kingdom.[1]

The projected length of the project is 5 years and it proposes collecting and evaluating thousands of plants and micro-organisms used in the traditional medicine of Mayan communities. The ICGB-Maya project (known as the *"Pharmaceutical Investigation into Sustainable Use of the Ethnobotanical Knowledge and Biodiversity of the Mayan Region of the Altos de Chiapas"* project), is in its second year of operation. Using indigenous knowledge as a guide for its investigation, the ICGB project in Chiapas proposes to discover, isolate and pharmacologically evaluate important components of plant species and microorganisms used in traditional Mayan medicine. A duplicate of all the samples collected will be placed in the herbarium of the University of Georgia - Athens (RAFI).

During 1999 and the first part of 2000, indigenous doctors from Chiapas undertook protests against the programme of bioprospecting, stating that their knowledge and resources were being plundered. The organisations consider that the principles of the Code of Ethics of the International Society of Ethnobiology (ISE) are being openly contravened. The director of ICBG-Maya, Brent Berlin, has been a member and President of this organisation, which allows for the *"Principle of Prior and Informed Consent and Veto"*. The project is also violating Mexican law and Chiapas law. Despite the demands of the Mayans of Chiapas and of the indigenous doctors who own the knowledge, the academic institutions involved in ICGB-Maya have refused to suspend the project.

On the other hand, throughout this same period, the Pluriethnic Autonomous Regions (RAP) promoted actions aimed at strengthening indigenous processes of autonomy by means of food self-sufficiency, within a frame-

work of defending and strengthening indigenous maize and local systems of indigenous production. In April 2000, this organisation held ceremonial, cultural and productive activities, along with the *"First Maize Encounter"* and training on the issue was provided in collaboration with the *Training Centre for Self-Development of Indigenous Peoples (CECADEPI)*. This was to inform and prepare people regarding the dangers of the growing penetration of genetically modified maize into Mayan and Zoque communities within the state. Indigenous itinerant salespeople in the town of San Cristóbal de las Casas also undertook actions and mobilisations. On 1st May 2000, a large group were sent to prison, and an indigenous Tzotzil deputy and leader of the RAP, Agustín Pathistan, was also arrested, violating his parliamentary privileges.

Other longstanding actors in the state once again exploded onto the public scene. The legendary Emiliano Zapata Peasant Organisation (OCEZ) "House of the People of Venustiano Carranza", once more came out onto the streets to demand their communal lands. Unfortunately, the enemies of those demonstrating are not to be found outside but inside their ranks. This organisation has been split by many divisions. In reality, this fragmentation is characteristic of most indigenous and peasant organisations at the moment. A large part of this serious problem being experienced by the Chiapas indigenous peasant movement is the result of the express will, and actions on the part of, the government in order to weaken this movement within the framework of a strategy of low intensity warfare. But alongside this, and equally important, are the actions of intolerance and corruption that have also gained ground amongst the leadership of these movements, causing them to lose credibility and legitimacy. Times are changing in Chiapas but there is still a long way to go. At least, to get where many of us would wish to be.

Notes

1 See: "*Indigenous Mayan Organisations denounce biopiracy project in Chiapas* - RAFI" (In Spanish).

GUATEMALA

Two events marked the political life of Guatemala during 1999, influencing – the first one in particular – the actions and demands of the Mayan organisations. On 12th March, a Referendum was held to ratify the constitutional reforms that came out of the Peace Process. However, out of the minuscule

12% of voters who exercised their right to vote, 57% decided not to approve the reforms. These included recognising Guatemala as a "pluricultural, multiethnic and multilingual" nation, a product of the 1995 Agreement on Indigenous Rights.

The second event, the consequences of which have yet to be discerned, was the Presidential, Legislative and Municipal elections, the first round of which was held on 7th November and the second round on 26th December. The triumphant party at all three levels was the Guatemalan Republican Front (FRG), a party created by ex-general Efraín Ríos Montt. It was during his de facto mandate from 1982-1983 that the greatest number of planned massacres were committed during the internal Guatemalan conflict and it was this party's candidate, Alfonso Portillo, who became the President of Guatemala on 14th January 2000.

The unexpected result of the Referendum has led to many very varied analyses in Guatemala, all attempting to explain the extremely high level of abstentionism and the response of those who did vote. The lack of interest on the part of the country's political structure itself in moving the peace process forward since its signing has been mentioned.. In fact, the 12 constitutional reforms anticipated in the agreements became 45 following their passage through Congress, leaving the initial proposal unrecognisable The parties themselves – even the recently demobilised Guatemalan National Revolutionary Unity (URNG) – appeared very reluctant to give firm support to the "yes" vote and to a positive response to the referendum's questions, and support for this was thus left to the civil organisations, above all human rights and Mayan organisations, to promote.

The "no" vote was supported by conservative and ultranationalist sectors, in an unexpected and far more united and decided manner than their opponents. Two of their fundamental arguments were that the peace process was a consequence of foreign interference in the internal affairs of Guatemala and that the indigenous proposals assumed a series of privileges that would constitute a threat to the territorial integrity of the nation.

Some of those who analysed the results have noted the high level of rejection, fear or at least incomprehension that exists in society with regard to the progress being made by the indigenous organisations in terms of recognition of the Mayan People. The urban middle class (who overwhelmingly voted "no") and other social sectors are still not prepared to support proposals for a multicultural society in which nobody is excluded, and where indigenous people may fully exercise their citizenship. Not only is it the weight of age-old discourse and internalised discriminatory and racist practices that cause

them to be seen as inferior but also a "fear of the Indian", which forms part of the ideological concept of their place in society.

However, the indigenous people themselves did not seem to lend the importance the organisations had hoped to the power and scope of their constitutional recognition: in spite of substantial efforts, they did not vote in sufficient numbers. Although the departments in which there was relatively more participation and more support for the "yes" vote were largely those of indigenous population, their support was not sufficient to counter the abstentions and negative votes.

For the indigenous organisations, this result was the end of an illusion and also the end of an era. For a long time – at least since 1992 – all efforts at the political level had been aimed at achieving legal recognition of the existence of the Mayan People, through direct participation in the peace process. Following the signing of the Agreement on Indigenous Rights, they set themselves to work in the resulting Parity Commissions in order to achieve its implementation. This meant five years of work with lukewarm – or indifferent – support from the Government and firm support from the international community – which funded a large part of the activities – around a defined programme that is now left without any legal substance. According to one Mayan leader, it was the end of a second stage – following a first "formative" stage – characterised as being achieved within the framework of the Peace Accords and with the support of international cooperation.

It was a hard blow and, instead of moving on to a stage of construction as had been hoped, it has been necessary to pause for reflection. In fact, COPMAGUA, the collective body that coordinated the efforts, "has still not raised its head", according to a source close to this organisation. On the other hand, certain sectors of the intelligentsia and the political class have had their views vindicated by the results of the Referendum, discrediting the aims of the Mayan movement and confirming their reaffirmation that in Guatemala there is no "indigenous problem".

Nonetheless, not all views are so negative and the anthropologist, Jorge Solares, states that, "what has been lost is not the real strength of the Mayans but the laughable and superficial concessions of the Government towards a cause that, when all is said and done, it is indifferent to". And this is partly the view of the Mayans themselves, many of whom consider that the only benefit the Constitutional Reforms would actually have given them was legal recognition of their existence as a People. Of course, this was important because it constituted a legal basis on which to build. But, they say, they worked without recognition for many years in the past and they will just have to continue

to do so in the future. And so whilst the Referendum brings to a halt – but not to an end – one way of working, the political path, there are many other areas in which progress has been made and which "must be continued". In fact, activities are still continuing at community level with regard to the important issue of education, and relations between the State and the rest of society, creating conditions and building on the efforts of previous years.

This does not mean that there is any triumphalism on the part of the organisations with regard to this unexpected change, or that they are detracting importance from what has happened. The above mentioned leader continued by saying that in this new stage there has to be a reformulation of the day to day tasks and proposals of the Mayan organisations if they are to continue with the work undertaken to date. There needs to be more support and greater links between those creating policy and working at national level and those working in the communities, in contact with the people, and where real progress is being made. These reflections assume more importance if we look at them in relation to the elections which closed the Guatemalan political year and which, for the Mayans, highlighted two important aspects.

Firstly, and as was seen from the Referendum, it is clear that the ethnic issue still has no place on the agendas of the country's political parties. With the exception of the URNG, the rest have not taken on board multicultural issues nor recognised the ethnic reality of the country in their programmes. Furthermore, in spite of the efforts of the Mayan organisations to become involved in political life, the proportion of candidates and deputies was minimal: 3% to 5% in the major parties, 7% in the URNG. Consequently, in a country in which approximately half the population is considered to be indigenous, there are currently 16 indigenous deputies out of a total of 113.

Secondly, it has been extremely difficult to understand the support given in indigenous areas to the party that had previously organised the greatest massacres precisely in those areas. This was already the case in the 1995 elections but since publication of the reports of the Commission for Historical Clarification and the Church, this support becomes all the more difficult to explain. This result raises many questions as to how the people in the communities perceive both their political participation in elections and the current "peace process" and "transition"; how they perceive activism in indigenous organisations in relation to party political life. When all is said and done, if they want to make progress in the political arena, and for this they require popular support, the question has to be asked as to what relationship exists between what the Mayan organisations propose and what the Mayans really need.

71

And so Guatemala began the 21st century as one of the few Latin American countries still not constitutionally recognising its multiethnic character – in spite of being one of the countries with the highest proportion of indigenous citizens -, and with a populist authoritarian government in which Mayans still occupy no more than cosmetic posts – a Minister for Culture, and two Ambassadors to Scandinavian countries. It would seem scant progress in comparison with what was hoped for, but it must be seen in relation to the speed of the process of transition the country is going through and to the participation of the Mayan organisations in this. That which has taken at least thirty years in countries such as Ecuador or Bolivia cannot be asked of a Guatemalan movement with scarcely a decade of public activism and following a bloody experience whose authoritarian overtones still live on in our memories. Such capacity for convincing people cannot be expected of the Mayan organisations, nor can such capacity for assimilation of new ideas be expected from Guatemalan society in so short a time. And so in spite of this setback, the process continues, falling within and transforming the deep process of transition that Guatemalan society is experiencing.

NICARAGUA

Post-Mitch Nicaragua

Considered to be the worst natural disaster to hit the country in the last 26 years, the damage caused by Hurricane Mitch in November 1998 included numerous *Miskitu* and *Sumu-Mayangna* indigenous communities living along the banks of the Coco and Grande de Matagalpa rivers. A slow process of recovery from the devastating effects of the hurricane is taking place, with help from a number of national and international bodies.

Within the framework of a series of activities relating to post-Mitch project preparation and national strategies for reconstruction and transformation, there has also been integration and work in common amongst the representative sectors of Nicaragua's Caribbean Coast. The authorities of the two autonomous governments and representatives of civil society thus presented a portfolio of projects amounting to 95 million dollars at the meeting of the Consultative Group in Stockholm, Sweden in May 1999. However, to date only 8 million dollars worth of funding for implementation of new projects has been obtained, this being from the Inter-American Development Bank.

Regional Autonomy

1999 was a difficult year for the process of autonomy in the Autonomous North Atlantic Region (RAAN) and the Autonomous South Atlantic Region (RAAS), jointly known as Nicaragua's Caribbean Coast. Firstly, the Autonomous Regional Governments, affected by internal and external constraints, are still far from fulfilling an important role in the long awaited regional integrated development. What is worse, however, is that the work of the Regional Autonomous Councils (CRA) reflects an even more negative outcome. The most important event of the period was unhappily a negative one, being the fact that the RAAN's CRA did not sit throughout the whole legislative year from May 1999 – May 2000 due to internal political disagreements and also in order to avoid having to deal with the issue of the possible dismissal of the Coordinator of the Autonomous Regional Government, a member of the Constitutional Liberal Party (PLC), at a plenary meeting of the Council.

After a year of virtual inactivity, on 4th May 2000 a new Governing Body of the RAAN's CRA was elected, made up of five councillors from the PLC and two from the Sandinista National Liberation Front (FSLN), in accordance with the so-called Liberal-Sandinista pact negotiated in Managua from August to November 1999. This pact consolidates the hegemony of these two majority parties over national political life. The YATAMA indigenous party withdrew from the elections and thus gained no representation on the Governing Body. However, in the RAAS's CRA, the political agreement between the PLC and YATAMA held firm. This meant that the previous Governing Body, made up of four councillors from the PLC and three from YATAMA, was ratified for a further two years. The only change was the new appointment of a second ordinary member, but the FSLN's exclusion continued. As happens in Nicaragua, in both cases the marginalised sectors alleged the use and abuse of improper practices during the electoral process.

During this period, there was no progress made with regard to the regulations governing Law 28, the Statute of Autonomy of the Autonomous Regions of the Atlantic Coast of Nicaragua. The issue was quite simply ignored.

The Process of Legalisation of Indigenous Communal Lands

In order to fulfil a condition of the Global Environment Facility, managed by the World Bank and relating to the "Biological Corridor of the Atlantic" project, the Nicaraguan government drew up, and subsequently sent to the National Assembly, a draft Organic Law regulating the System of Property of the Indigenous Communities of the Atlantic Coast and BOSAWAS, on 13th October 1998. This draft law was prepared by civil servants and consultants from

different State bodies with no participation whatsoever on the part of the involved or interested parties.

Consultation Regarding the Draft Law

With funding from the project mentioned, ten months after its official referral to the National Assembly and through a dynamic process of national and international lobbying on the part of indigenous organisations and other civil society representatives, a process of consultation was initiated under the co-ordination of the Bluefields Indian & Caribbean University (BICU) and the RAAS, and the Moravo Inter-University Centre (CIUM-BICU) and the RAAN. An initial assessment indicates that there are more disagreements than agreements between the official position expressed in the said legal instrument and that of the participating indigenous communities. The majority of discrepancies in positions correspond to the following four aspects: a) the concept of national lands, b) institutional roles and responsibilities as well as the definition of the sphere of competence of the regional authorities and community representatives, c) level of active involvement on the part of the indigenous communities, and d) control of subsoil resources.

Having experienced a six-month delay due to financial constraints, the consultation is anticipated to come to an end in July 2000. Nevertheless, the preliminary results of this process seem to demonstrate that the draft law does not constitute a framework for negotiation with which to facilitate a rapid and effective solution to the problem of lack of legal recognition of the communal lands and territories, given that there are minimal positions and opinions in common. In this respect, the level of political will of all those involved will be the determining factor in negotiating conflictive and/or divergent aspects, along with the relative powers of the social and political groups that support or oppose the demarcation and titling of communal lands on the Caribbean Coast of Nicaragua.

The Persistent Threat Caused by the Advance of the Agricultural Frontier

Through their particular relationship with the environment, indigenous communities are - to a degree – the guarantors of natural resource conservation. Nevertheless, the agricultural frontier is taking giant steps forward, trampling on communal lands. Daily, vast areas of forest on Nicaragua's Caribbean Coast are being destroyed by fires caused by migrant peasants seeking to convert the forest into areas suitable for extensive livestock rearing. One factor that enables this advance is the lack of demarcation and titling of communal lands.

This is a focal point of tension, and one which could end in serious armed conflict if the demarcation of indigenous lands is not urgently dealt with.

The lack of legalisation of indigenous communal lands and the consequent legal insecurity of communal ownership is one of the main causes of conflict and agrarian legal problems in the RAAN and the RAAS.

A Dry Canal Mega-project: A New Area of Conflict for Communal Property

During 1999 and to date, a development mega-project involving the RAAS has held the people's interest. This corresponds to the construction of an inter-oceanic channel for the transportation of merchandise between the Pacific Ocean and the Caribbean Sea and vice versa. This mega-project, known popularly as the 'dry canal', is being promoted by two companies: Nicaragua's Inter-Oceanic Canal Company (CINN) and Intermodal Systems of Global Transport (SIT Global). The construction plans include a deep water port at Monkey Point on Nicaragua's Caribbean Coast, which would link up with another port on the Pacific by means of a rail network.

However, the process of discussion and official approval of the different feasibility studies suffers from a lack of wide and effective participation on the part of the regional authorities and the population living in the actual area of interest. The possible concession of operating rights over a dry canal once more highlights the contrasting interests of the national State and the indigenous communities of the Caribbean Coast, in this case indigenous *Rama* communities, not to mention the Creole and Afro-Caribbean community of Monkey Point. Given this situation, and in order to support those people affected, a group of non-governmental organisations, coordinated by the International Human Rights Group (whose headquarters are in Washington), is undertaking the necessary procedures by which to submit a petition to the Inter-American Commission on Human Rights of the Organisation of American States (OAS) in May 2000. This will request that this body adopt three preventive measures requiring the Nicaraguan government to halt the concession granting procedure until a process of consultation, dialogue and negotiation with the above mentioned communities has been initiated and also to establish guarantees that this mega-project will not cause irreparable damage to their identity or to their economic, political and religious rights.

This would be the second time that sectors of the Nicaraguan population have appealed to the Inter-American Commission on Human Rights. Previously, in 1996, the *Sumu-Mayangna* community of Awas Tingni appealed to the Commission to oblige the Nicaraguan government to fulfil its legal obli-

gation to demarcate and title the indigenous communal lands of Nicaragua's Caribbean Coast. This community is still awaiting a favourable judgement from the Commission, whilst in the last few months the Nicaraguan government's willingness to negotiate an agreement between the two parties has increased. Nevertheless, there is still a huge difference between the territorial demands of Awas Tingni and the successive proposals of the government.

The Dispute Over Forest Resources: Wealth and a Source of Accumulation for Some, Plundering and Dispossession for Others

Exploitation of forest resources continues to be an issue of disagreement on the Caribbean Coast. In general, the practice of damaging the forest continues to prevail, and accusations and counter-accusations of corruption in the granting of logging concessions at national, regional, municipal and communal level are rife. A lack of accountability on the part of a number of communal councils when negotiating with third parties, not to mention transparency in the use of the income received, is contributing to an erosion of the credibility and legitimacy of this communal authority.

The forest resources constitute one of the main and most immediate sources of cash income for significant sections of the indigenous and mestizo population. Thus, alongside a weakening of the indigenous culture of caring for the forest, the last ten years have seen a phenomenon of re-evaluation or commercialisation of forest resources in many indigenous communities, for whom timber extraction may now represent their main source of cash income. This situation is also common amongst demobilised and displaced indigenous people who, along with their mestizo counterparts, are demanding the individual titles to lands that are abundant in precious woods.

The struggle to participate in the distribution of profits caused by forest exploitation is a common factor in inter-community conflicts. However, there is also general dissatisfaction in the majority of communities with regard to the distribution of profits from the exploitation of natural resources that are communally owned. The wood in nearly all the communities and the sand in Kamla, in the municipality of Puerto Cabezas, are two good illustrations of situations in which an absence of control and fair distribution of profits is argued.

By Way of Conclusion

There is little harmony between the draft Organic Law regulating the System of Property of the Indigenous Communities of the Atlantic Coast and BOSAWAS proposed by central government and the proposals from the com-

munities consulted. However, there is also an awareness in the autonomous regions that the demarcation and titling of communal indigenous lands is a necessary condition for the stability and legal security of land tenure and territorial organisation. Legalising the land tenure of the indigenous communities is also a necessary condition for the promotion of investment that will enable greater exploitation of the natural resources, as well as access to funding and the benefits of development projects.

1999 was not a particularly good year for the *Miskitu*, *Sumu-Mayangna* and *Rama* indigenous peoples, nor for the minority Afro-Caribbean ethnic groups, the *Creole* and *Garífuna*. An unequal distribution of benefits from the exploitation of natural resources persists in the autonomous regions, the relative power of the Regional Governments continuing to be weak in relation to central government. Meanwhile, the deficiencies and weaknesses of indigenous political structures seem to grow ever deeper with passing time. The people are crying out for a new leadership which, with a vision of the future and genuine political commitment to the process of autonomy, will be able to stand up to the challenges of regional development with greater chance of success.

PANAMA

For the indigenous peoples of Panama, the final year of the 20th century was one of intense political activity. The arrival of a new government and a woman President brought new hope, whilst the legalisation of new indigenous territories over the last ten years has meant that dreams have been achieved, albeit by means of fierce struggles that have left the country's indigenous people with much grief and pain. However, alongside these small windows of opportunity appeared new problems, and many old ones continued unresolved. Statistics relating to poverty and misery continue to highlight the fact that indigenous communities remain the worst affected in the country.

Throughout the May 1999 elections, our people's strongest demands were: the legalisation of the *comarcas* (territories) and their immediate demarcation (this latter is yet to be defined by the new government); improvements in living conditions and respect for indigenous dignity; ratification of ILO Convention No. 169 by the party gaining power and the prioritisation of laws favouring indigenous peoples in order to combat the poverty that the national authorities were highlighting.

It should be noted that the elections had a negative effect on the unity of our regions for, unlike in other countries, there was no independent indigenous participation. In other words, indigenous candidates had to be put forward by the traditional political parties. Out of 71 deputies elected to the new Legislative Assembly (Panamanian Congress) in this round of elections, 5 were indigenous - from the provinces of Bocas de Toro and Chiriquí (two Ngobe), Darién (1 Emberá) and two from the Kuna Yala *comarca*.

On 1st September 1999, on the day that the Legislative Assembly was inaugurated, the Kuna deputy Enrique Garrido Arosemena was elected its President (this is the second most important State body). He is from the 10-2 electoral circuit of the Kuna Yala *comarca*. Honourable Legislator Garrido is a philosophy graduate from the Catholic Santa María La Antigua University, re-elected for a second time as a Deputy of the Republic.

This event has radically changed the political life of Panama and this country's vision of its indigenous people. On the part of the indigenous peoples, astonishment aside, there was unanimous applause and recognition. And the majority of non-indigenous people were also happy that, for the first time in the history of the country, an indigenous person was leading one of the most powerful State organs. This event is unique at parliamentary level throughout the Abya Yala continent.

From this moment on, indigenous issues have taken a new turn. It has meant that responses to some of the demands of our peoples have been sped up, particularly with regard to Laws. On 12th October 1999, there was a special session of the Panamanian Parliament, not to celebrate the date but to highlight the indigenous struggle. In front of the national deputies, the President of the Republic and other guests, the General Kuna Cacique Carlos López made an official speech, accompanied by other indigenous leaders.

In November, in the meeting of the General Kuna Congress, for the first time in the history of this country the Kuna community formally retired the Caciques (traditional leaders) Carlos López, Julián González and Leonidas Valdés for health reasons (these posts were previously held for life) and elected three new leaders, Gilberto Arias, Harmodio Vivar and Ospino Perez, and William Perez as General Secretary. This change came at a time when the Kuna people are consolidating their autonomy, increasingly undermined by mining companies, tourists from the industrialised countries and Panamanian companies supported by multinational capital.

In 1999, the national government approved the internal regulations for two indigenous comarcas that had been created by legal means: the Embera-Woanaan comarca created by Law No. 22 in 1983 and the Ngobe-Buglé comarca created by Law No. 10 in 1987. With this stage finalised, the indigenous authorities were required to present internal regulations to the Executive for ratification; these are known as Organic Charters.

The Emberá comarca had to wait 16 years to get its Organic Charter recognised, although it had the agreement and approval of all those it affected. The document was finally approved as Executive Decree No. 84 of 9th April 1999, "by which the Administrative Organic Charter of the Emberá-Wounaan de Darién comarca was finally adopted", published in Official Gazette No. 23,776 of 16th April 1999.

In the case of the Ngobe-Buglé they did not have the best of luck because the document approved by the government contained many errors and had neither the consensus nor the approval of representatives from all areas comprising the Ngobe comarca. By means of Executive Decree No. 194 of 25th August 1999, "the Administrative Organic Charter of the Ngobe-Buglé comarca was adopted", published in Official Gazette No. 23,882 of 9th September 1999.

This comarca has already experienced its first problems of the new millennium, during the appointment of the general caciques, which highlighted divisions between the regional congresses. There is thus a general opinion that the Organic Charter needs to be reformulated. This was adopted by the previous government largely for political ends and does not benefit this indigenous community.

Another underlying problem of recent years that has yet to be resolved is that which exists on the border with the Republic of Colombia, where groups involved in the conflict have been invading or making incursions into indigenous territories in Panama. There have been clashes causing fear and terror amongst the communities, above all the Emberá-Wounaan and Kuna. This has also meant that some Panamanian politicians have again raised the issue of the possible installation of a North American military base in Kuna Yala. This proposal was rejected in 1997 and, indeed, was rejected again on this occasion. However, the Kuna community did agree to recruit some of their young men to form part of this region's Panamanian border police.

One event worth mentioning was the formation, at national level, of an Indigenous Committee for ratification of ILO Convention No. 169. Since Novem-

ber 1999 and because of a note sent by the President of the Legislative Assembly to the ILO Regional Director for Central America, Panama and the Dominican Republic, which has its head offices in San Jose, Costa Rica, this body has been promoting a series of training courses at different levels amongst the indigenous peoples of Panama, and this has increased the government's concern for this issue a little. By mid-2000 it had still not been ratified, but the pressure continues.

On 19th April this year, the Presidency of the Republic formally established the National Council for Indigenous Development (CNDI) in order to implement the Third Goal of its Social Agenda, entitled "A social policy for and with indigenous peoples". To this end, the President of the Republic, Mireya Moscoso, and the Minister of the Interior and for Justice, Winston Spadafora, signed Executive Decree No. 1 on 11th January 2000, creating the Council for Indigenous Development.

There are different interpretations regarding the creation of the CNDI. Some are in favour, because from now on it will report directly to the Ministry of the Presidency and indigenous demands may thus be more quickly dealt with. But others consider it no more than a structural change from one ministry to another without resolving indigenous problems, moving the Office of Indigenist Policy from the Ministry of the Interior and Justice to the Presidency. What is, however, significant is that indigenous issues at governmental level are now being expanded on all fronts.

At the beginning of March 2000, there was an International Meeting of Indigenous Women of the Continent, where they analysed different issues of concern at local country and international level. The Panamanian host was the National Coordinating Body of Indigenous Women of Panama.

At the beginning of April there was a great scandal in the country when a group of Panamanian deputies visited the sugarcane plantations in the central provinces in order to carry out a mission of the Human Rights Committee and found that indigenous children were working alongside grown men and living, with their parents and young brothers and sisters, in subhuman conditions close to the plantations. The last straw was when the Minister of Labour, in trying to justify this exploitation of our Ngobe-Buglé brothers in the plantations of wealthy people who are allied to the current government declared that, "the working conditions are clearly not the best, but where they (the indigenous) normally live it is worse. At harvest time they eat up to three

times a day and the sanitary conditions are much better than in their own homes. When they come down from the mountains (...), it is like going on holiday". (El Siglo, 12th April 2000). It was as if his task was to justify the existence of rich and poor in this country and that it was the rich who made the orders and imposed the working conditions. Complaints made by the Ombudsman to the Human Rights Committee of the Legislative Assembly could thus not be justified.

At the same time, and in the same town, it became known that a young indigenous child had been left to die because her family did not have enough money to go to the doctor. The disgust and lamentations of the people living there were only to be expected, and these were followed by hollow and almost inhuman explanations that attempted to find the family itself guilty. They only stopped short of saying that the child herself was to blame for falling ill. The case is still under investigation. All these events indicate that there continue to be violations of the human rights of indigenous peoples in Panama and that, in spite of having achieved some recognition, they continue to be seen as second class citizens.

At the end of April, the Annual Conference of Private Business was held and this year the theme was "Poverty in Panama". As was to be expected, all the speakers and documents devoted their attention to indigenous peoples, who they called "the poorest of the poor". A considerable number of documents were produced but very little activity on the part of either the State or private enterprise has been seen with the aim of tackling "poverty in the indigenous communities".

During the first and second weeks of May 2000, almost four years since a *sui generis* Law on the intellectual property of indigenous peoples of Panama was first presented, it was approved by the Legislative Assembly following various consultations and discussions with different ministries of the national government and consultation with the indigenous peoples of Panama. This is considered to be the first of its kind in Central America, and possibly the continent as a whole.

Countries covered in this issue: Venezuela, Colombia, Peru, Bolivia, Brazil, Paraguay, Chile, Argentina

82

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SOUTH AMERICA

VENEZUELA

During the second half of 1999, the Venezuelan government of Hugo Chávez Frías undertook its first political project, commencing the formulation of a new Constitution of the Republic. The drawing up of the new *Magna Carta* was to be undertaken within the framework of a National Constituent Assembly (See THE INDIGENOUS WORLD, 1998-99, chapter on Venezuela). The 30 indigenous peoples of Venezuela were offered the chance of achieving recognition, within the constitutional order, of their specific rights as the country's native ethnic groups, characterised by their specific cultural traditions.

The National Constituent Assembly comprised 103 members, 100 of whom were elected at national level. The three remaining members were appointed by the Indigenous Communities of the country, with the participation of indigenous people's organisations.

The work of drawing up the new Constitution began in the 21 special Assembly Commissions. It had initially been anticipated that the indigenous issue would be dealt with by the Commission on discriminatory issues. However, through the personal intervention of the indigenous Constituent member, Noheli Pocaterra, who spoke to the Venezuelan President, Hugo Chávez, himself, a "Commission for the Rights of Indigenous Peoples" was formed, made up of three indigenous Constituent members, and other members with expertise on the indigenous issue.

In September 1999, this Commission presented a draft of various provisions to be included in the new Constitution. Starting from the basis of an article that acknowledged recognition of the pre-existence of indigenous peoples and a reaffirmation of the multiethnic, pluricultural, multilingual and plurijuridical nature of the country, various broad rights of indigenous peoples were declared, such as the inalienability of traditionally occupied ancestral territories and lands; the right to use, manage and conserve the natural resources existing on their territories; the right to maintain and promote their own economic models and their own legal systems; wide cultural autonomy, such as, for example, the right to own education, access to an intercultural and bilingual education system and the right to integral health care, in accordance with their way of thinking and cosmovision.

Soon after making public these draft provisions regarding the rights of indigenous peoples, political adversaries began to attract the public's attention to this issue by means of the media.

In an editorial in the influential Venezuelan newspaper *El Nacional*, it was affirmed that plots against the territorial integrity of States were currently proliferating and that many countries had paid a high price for overlooking this fact; that it was "not only indisputable but also necessary" that the new Constitution should take into account the struggle for the equality and preservation of the "prehispanic cultures" but that, at the same time, the members of the National Constituent Assembly had to eliminate from the constitutional text all references that could give rise to doubts regarding the integrity of the national territory.

In a press interview, Gustavo Pérez Mijares, President of the ultraconservative movement *Pro-Venezuela*, stated – far more abusively than the stated editorial – that, by recognising the "political, social and economic organisation" of indigenous peoples, along with their languages and religions, the State would be promoting the dismembering of its own territory. To this exaggerated polemic he added the further question, "who would hand over control of the majority of natural resources, along with an area equivalent to almost half the geographic area of Venezuela, to a minuscule percentage (1.4%) of the population?"

To cap it all, he stated that Venezuela, "would regress to times prior to the General Captaincy (colonial regime - author's note), and consequently risk a possible confrontation between ethnic groups that no longer exists in Latin America".

The press gave extensive coverage to the opinion of the relatively unknown "National Council for Security and Defence " (SECONASEDE), dominated by the President's adversaries within the army. SECONASEDE had published a report in which it stated that the application of national law was likely to be limited by the provisions of the new Constitution. The authors of the report argued that by applying indigenous people's own methods of punishment or restraint, which are different to those established in the Criminal Code, internationally-demanded respect for human rights would be put in danger – a cynical argument taking the demand for fundamental rights to absurd levels. It warned that the aim of indigenous peoples was firstly to become "native peoples", with their own collective territories, in order to use this as a springboard from which to proclaim themselves "independent nations" (sic!). As usual, they resorted to the conspiracy theory: these *indigenous micro-states* would in no way be in a position to achieve the (sup-

84

posed!) proclaimed objective of self-determination; on the contrary, their weakness would merely encourage the intervention of foreign interests. SECONASEDE also believed it knew who these foreign interests were: at the beginning of the 1980s, some international human rights organisations had declared the whole of the Amazonian region "the common heritage of Humanity", thus awakening indigenous separatist movements. Foreign economic forces using these groups as a front thus wanted to reduce the right of sovereignty of the national States.

Such polemical attacks aimed at preventing the planned constitutional recognition of the rights of indigenous peoples came from the political enemies of President Chávez – particularly from some sectors of the private economy and from politicians discredited for their corruption and linked to the political parties of Democratic Action and the Christian Democrats. The indigenous issue was used as a pretext and vehicle with which to sow prejudice and misunderstanding amongst the general public with regard to the long awaited new Constitution and the native peoples.

The Ministry of Foreign Affairs of Venezuela, José Vicente Rangel, decided it was necessary to highlight the absurdity of these attacks against the anticipated recognition of indigenous rights in paid press advertisements. He stated that it was a question of increasing these people's participation in order to ensure their enjoyment of human rights as rightful Venezuelan citizens. He noted that none of the provisions of the new Constitution would imply any detriment to the national sovereignty of Venezuela and that the Government would propose that Parliament supported ILO Convention No. 169.

As a consequence of the public debate, the initial plans of the Commission on the Rights of Indigenous Peoples were to some extent reduced. It was only thanks to this compromise that the approval of the other Commissions of the Constituent Assembly was possible. The final version of these rights thus remains incorporated into the complete text of the new Constitution, which was approved by 71% of voters in a referendum on 15th December 1999.

The constitutional recognition of the rights of Indigenous Peoples has placed Venezuela amongst the most progressive countries in the world with regard to this issue. Starting from the preamble that states that the people of Venezuela decree the new Constitution with the aim of restructuring the Republic in order to establish a democratic, participative, multiethnic and pluricultural society, the articles most relevant are found in a chapter apart, entitled "The Rights of Indigenous Peoples".

Recognition of the rights of indigenous peoples to their lands plays an important part. But what land does this recognition refer to? The Constitution talks, on the one hand, of those lands that they ancestrally and traditionally occupy. However, it also refers to the land necessary to develop and guarantee their way of life – that is, it also adopts a criteria aimed at the future needs of the native peoples.

The fact that the land is a collective and inalienable right, imprescriptible, nonseizable and non-transferrable, now remains recognised as a right of Indigenous Peoples.

The new Constitution, however, does not talk of indigenous "Territories"; it only notes "Lands" and, in some contexts, "indigenous environments". Use of the term "Territories" was dropped in order to avoid possible implications regarding right of sovereignty.

The exploitation of natural resources "in the indigenous environments" on the part of the State will be permitted if it is undertaken without injury to the cultural, social and economic integrity of the indigenous communities, - a provision of particular importance, dealing with the extraction of the subsoil wealth which, *in situ*, continues to belong to the State. For the exploitation of these resources, the indigenous communities affected will be consulted in advance. These people – as agreed in subsequent and complementary legal provisions - must receive benefits from this exploitation. An appropriate application of these new constitutional provisions, in a similar spirit to that which inspired their writing, will from now on be sufficient guarantee of the interests of Indigenous Peoples affected by mining and hydrocarbon projects.

The less controversial rights to autonomy over cultural issues also remain enshrined In the Constitution. The article on protection of the collective intellectual property of Indigenous Peoples contains one interesting provision: the registration of patents over genetic resources and associated knowledge is prohibited. With this, the new Venezuelan Magna Carta is the only constitution in the world that tries to put a block on the biopiracy practised by international pharmaceutical and seed consortia.

Article 126 states that Indigenous Peoples form part of the Venezuelan Nation and that the term "peoples" as used in the Constitution should not be inferred as having the meaning given to it in international law. This put an end to the polemic regarding the Rights of Indigenous Peoples: this provision attempts to make it quite clear that in no case may this be deduced as a right of secession from Venezuela.

86

Not all the articles that refer to indigenous peoples are to be found in the constitutional Chapter especially devoted to their rights. In the Chapter on Judicial Power and the Justice System, it is established that the legitimate authorities of the indigenous peoples may apply, within their own environment, legal and justice systems based on their ancestral traditions. This indigenous jurisdiction, according to the Constitution, has its limits in the Constitution, in law and in public order. We will have to wait and see whether this formula – which is similar to those used in other constitutions on the continent – will be interpreted in a very restricted way or not, and whether it strengthens the application of indigenous jurisdiction in practice.

Indigenous jurisdiction is subject to another restriction: it can only be exercised over members of indigenous peoples.

In the new Venezuelan Legislative Assembly – the previous bicameral system has been replaced – there will be three deputies elected by indigenous peoples, "as has been established in the electoral law, in accordance with their traditions and customs".

One week before the Referendum on the new Constitution, a workshop on National Indigenous Preparation was held in the city of Caracas. In a temporary provision of the new Magna Carta, it was anticipated that the demarcation of the indigenous environment would take place within two years of the new Magna Carta entering into force. In this workshop, indigenous people set their sights on the short term political future with great optimism, clearly aware however, that work to ensure fulfilment of the temporary provision needed to start at the beginning of the year 2000. Success in the demarcation of their lands would depend largely on the extent to which the constitutional rights of Indigenous Peoples are translated into practice.

Furthermore, the achievement of the rights of indigenous peoples consecrated in the new Constitution will be largely based on the national legislation with which to implement them. For example, indigenous jurisdiction must be coordinated with the national judicial system by means of a law that is yet to be announced. Equally, legislation must be adopted to establish the options for a system of municipal government that takes into account the cultural situation of the Municipalities that have indigenous populations. The future will show whether, within the new Republic, these laws will be announced and whether the indigenous peoples will have access to these legislative processes, in accordance with the spirit of the new Constitution.

87

Recent cases show that the threats against their rights continue. A short while ago, the Piaroa indigenous communities complained that the General Directorate of National Parks had granted authorisation to representatives of the famous *Instituto Venezolano de Investigaciones Científicas* (IVIC – Venezuelan Institute for Scientific Research), whose head offices are in Caracas, to undertake research that involved the collection of living plants and their chemical study. The authorisation granted the IVIC the right to use and exploit the biological resources within the framework of a project called "Biomedicine in the Tropical Forest". The Piaroa consider this project to be a violation of their constitutionally guaranteed right of collective intellectual property. The Regional Organisation of Indigenous Peoples of the Amazon (ORPIA) and the Office of Human Rights of Vicariato Apostólico in Puerto Ayacucho is requesting support from the public for an "Urgent Action". They are asking that letters be sent to the Director of the IVIC and to the Ministry for the Environment and Natural Resources requesting nullification of this authorisation.

Indigenous participants in Caracas discussing the new Constitution (Foto: IWGIA Archive).

88

The recent achievements of indigenous peoples in Venezuela in terms of the Constitution must be assessed positively. However, there is a continuing imprecision in Venezuelan indigenous legislation and policies, with a consequent and significant legal insecurity. The current government continued with its decision to ratify a project for the construction of a high voltage electric line connecting the Orinoco basin with the north of Brazil, enabling the transmission of 200 megawatts per day to Brazil. This project had originally been initiated by the previous government of Rafael Caldera (see details in THE INDIGENOUS WORLD, 1998-99, chapter on Venezuela). The construction of the electric lines means extensive destruction of the environment and the violation of various rights of the indigenous peoples of the Venezuelan Guyana. Unfortunately, the first Minister for the Environment of the Chavas government, Atala Uriana, a member of the Wayúu indigenous people, demonstrated a complete lack of clarity with regard to this problem. More recently, the government began negotiations for a peaceful agreement with the Indigenous Federation of the State of Bolívar (FIB), yet at the same time intending to continue with the electric power line project, after having interrupted it a year earlier due to protests from environmentalists and indigenous people due to the environmental and socio-cultural impact. According to international reports, the Venezuelan President said at the beginning of April 2000 that an agreement had been reached with the peoples and that it was hoped to conclude the work within eight months.

This news caused a sensitive situation, and one which may lead to tension within the indigenous movement in the State of Bolívar. At the time of writing this report, it was not possible to evaluate the latest developments in any greater depth.

COLOMBIA

Everything points to the fact that, in the face of the serious economic and political crisis in Colombia, the government and economic/political elites are on the offensive against indigenous rights, placing them under siege in what could be the prelude to their annihilation.

Most notable in 1998 and 1999 was the legislative and administrative offensive, motivated by the national government's need to obtain the natural resources on indigenous territories in order to try and resolve the fiscal deficit and economic crisis.

The Colombian State currently recognises more than 30 million hectares of indigenous property, whilst in 1960 it officially recognised scarcely 600,000. This has been the result of fierce indigenous struggle, plus national and international solidarity. It is also in line with the apparent victory for indigenous rights as expressed in the 1991 Constitution and in ILO Convention No. 169, approved by Law 21 of 1991.

Nevertheless, it should be noted that virtually all of the land that has been recognised as indigenous property was already in the hands of indigenous people. Of the 30 million hectares, less than 200,000 were actually recovered from the hands of landowners, through purchase on the part of the "Colombian Institute for Agrarian Reform" (Incora). This effectively means that in 95% of cases, property claims were accepted as long as the State considered the land to be "vacant". But the property of landowners was only returned to the indigenous in 20% of the cases that were brought.

In reality, recognition of the ownership of indigenous lands was influenced by the power of the large landowners and their traditional farming interests. However, in the current context of globalisation, Colombia has increased its imports of food eightfold since 1990 and more than a million hectares have been left unsown, particularly on the large estates. The land is no longer valued in terms of its farming potential but in terms of its proximity to large investment projects such as oil, mining, hydroelectricity or transport (roads, canals, rivers over which concessions can be obtained etc.).

Under these conditions, Colombia is once more being divided up into large estates and, over the last 15 years, the share of land owned by large landowners has increased from 32% to 45%, this land being gained largely through violent means and the displacement of peasant farmers from the strategic areas of investment projects.

This is how things are now: the vision by which the titling of indigenous lands was made possible has been replaced by another. Until recently, the political class thought the fact that the 1991 Constitution declared the State to be the permanent owner of the subsoil was sufficient guarantee against indigenous rights. But the Constitution prohibits the exploitation of natural resources in indigenous territories if it puts at risk the social, economic and cultural integrity of the natural inhabitants and ILO Convention No. 169 establishes the obligation of prior consultation with indigenous people regarding any legislative or administrative measure that is likely to directly affect them.

The indigenous territories recognised by the State - 45 Colonial Reserves, 4 Republican and 541 recognised by Incora - cover 21% of the national territory and within these areas can be found a high percentage of the exploitable natural resources, both renewable and non-renewable. In the case of oil, for example, more than 50% of exploitable oil in the country is found within indigenous territories.

It seems as if the indigenous ancestral spirits played a dirty trick on the Spanish *conquistadors*: the Europeans ejected the indigenous from the lands most suited to agriculture, restricting them to supposedly "poor" lands, such as forests, plateaux and deserts, but this is where the oil, gas, coal, gold, biodiversity, navigable rivers and sources of hydroelectric power are now to be found. The indigenous people are living on great wealth and western society now wants to take this away from them.

For the government, the situation is an infuriating one. Application of the neoliberal model has left the State with no resources and no option other than to provide concessions and associations over natural resources that give the State budgets some relief. For the United States, inflation caused by the hike in oil prices is a threat to its current economic boom and it urgently requires exploitation and exportation by countries such as Colombia, which are not affiliated to OPEC, to be increased.

On the other hand, the Colombian government is working to stabilise the balance of trade, seriously affected by the international crisis that affected Asia and Latin America and which caused a fall in exports, whilst competition from cheap imports has bankrupted national producers. The government devalued the currency and is looking to export more oil in order to benefit from its increase in price on the world market.

In November, in Houston Texas, President Pastrana and his first Minister of Mines, Luis Carlos Valenzuela, agreed to guarantee the best working conditions possible for the oil and electricity transnationals.

All these interests have a direct effect on indigenous peoples. In fact, in areas in which megaprojects are being planned, recognition of indigenous reserves has been frozen. Such is the case of Juradó (Chocó) where, in spite of three studies with similar results having been carried out, the last three governments have not recognised the *Embera* territory. For it is here that the planned Atrato-Truandó dry canal, an alternative to the Panama canal linking the Atlantic with the Pacific, will join the Pacific. The politicians use black communities' rights as the excuse but this is not valid because the rural black communities are not asking for their lands to be titled.

91

Oil projects are another obstacle to territorial recognition. Such is the case of the Putumayo communities where, recently, more than 85% of the territory of the *Kofán* people was left outside the recognised reserve. The *Mokaná* people of the Atlantic, fraudulently stripped of their Colonial Reserve by a general in 1885, are in a process of cultural and territorial recovery. But they are opposed by a contract for exploration that has been drawn up and signed with British Petroleum (BP), and the Department of Indigenous Affairs of the Ministry of the Interior is thus trying to paralyse the process of formation of their reserve.

In any case, a good part of the indigenous territories have already been recognised. However, the territories that coincide with oil contracts, such as that already signed with Canadian companies over 300,000 hectares located within the great *Wayúu* reserve in Guajira or that formalised with Amoco (BP) in the Catatumbo on the territory of the *Bari* people, already decimated by oil exploration on the part of Mobil, Texas and Gulf since 1930, are not safe.

The inclination of the government, the transnationals and the political elite - enriching themselves on backhanders from the oil, hydroelectric and mining companies - is towards a progressive attack against indigenous rights. This was already clear when they refused to concretise the demarcation and functioning of indigenous territorial bodies recognised in the 1991 Constitution, which were aimed at giving geographic expression to the political autonomy of Colombia's indigenous peoples.

The Legislative and Administrative Offensive

In 1991, Colombia ratified ILO Convention No. 169 and indigenous people thus had the right to prior consultation regarding any legislative or administrative decision affecting them and any exploitation of natural resources or implementation of megaprojects within their territories.

Before the end of the Samper administration, and without prior consultation with indigenous people, Decree 1320 of 1998 was issued, modifying the requirements governing the granting of natural resource exploitation licences on indigenous territories. Decree 1320 restricted consultation to cases where areas "inhabited on a regular and permanent manner" by "indigenous communities" were affected, it determined that consultation would be achieved through a maximum of two meetings and that, should an agreement not be forthcoming, it would be for the government alone to decide what path to take.

This Decree ignores the concept of territoriality, established in ILO Convention No. 169 and found widely developed within national legislation. This concept includes areas of access to traditional or subsistence activities, whilst the decree restricts it only to areas occupied in a permanent way. This implies a serious violation of indigenous rights and could be the beginning of a denial of their territorial rights and the ethnocide of these peoples, for they are seasonally mobile and thus do not live permanently in one place. The government's intention was to restrict this right in order to make works and projects previously paralysed by indigenous peoples possible - firstly, in the case of the *Embera Katío* people of the upper Río Sinú, where a hydroelectric plant was built flooding part of their territory and, secondly, in the case of the *U'wa* people, who are opposed to the drilling of the Gibraltar 1 oil well, both projects being in areas of their territory that are not permanently inhabited by their communities.

Although Decree 1320 doubly violates ILO Convention No. 169, as it denies the definition of territory in article 13 of this Convention and because there was no prior consultation, the State Council declared it valid in 1999. However, the Constitutional Court then declared it inapplicable to the Embera Katío when these people brought a legal action of protection against the Urrá S.A hydroelectric plant.

The jurisprudence of the Constitutional Court has contradicted that of the State Council on various occasions, but the government has hidden behind the fact that it is the State Council that has the power to determine the validity of administrative acts, using this power to flagrantly violate the constitutional rights of indigenous people and ILO Convention No. 169. The State Council is the Achilles heel of the Colombian Constitution.

The offensive against indigenous peoples has been demonstrated in other regulations, for example, in article 142 of Decree 1122 of 1999 – brought in by the Pastrana government - which attempts to leave open the possibility of the government unilaterally declaring indigenous ownership rights over the lands of their collective Reserve invalid.

This Decree was issued whilst President Pastrana was benefiting from the extraordinary powers Congress gave him and, because this gave it the character of a law, its constitutionality was examined by the Constitutional Court, which declared it unconstitutional. Although fortunately this regulation was halted in its path, it clearly demonstrates the anti-indigenous intentions of the current government.

The Draft Agrarian Law

A new draft law, No. 151 of 1999, amending the Agrarian Reform Law (160/94), was presented to Congress by the government on 25th October last.

This government project signifies a serious attempt to avoid fundamental indigenous victories. In the first place, it demands that all cases of land purchases on behalf of indigenous peoples are subject to the prior approval of a business-oriented production project. It wants to impose a condition that is foreign to many cultures, obliging them to take on business-oriented projects in order to receive the land to which they already have a right.

In reality, it is the current government's way of moving forward its project, which seeks to force the local communities to revolve around the large oil, mining, hydroelectric, transport, river privatisation, African palm plantation and timber projects.

As far as the government is concerned:

> *"farming and forestry production units will be promoted, and State efforts in support of rural development will be focussed on these. These are understood as socio-economic processes generated around a main activity in which the rural communities are involved alongside the business sector in strategic alliances within successful production projects already being undertaken or with high probability of competitiveness... This strategy will also rely on funds from the private sector, public funds and those originating from the Fund for Peace and from international cooperation .*
>
> *In those regions where it is feasible, a link with private capital will be sought through financial resources or lands in order to improve access to resources on the part of landless workers under the modality of a programme of production alliances for a sustainable reactivation of the farming world, which will be driven by the Ministry of Agriculture and Rural Development.*
>
> *With this policy we are trying to convert rural areas into a productive business for all, promoting decentralised investment projects.."*[1]

For "main activity" read "large investment projects", for "strategic alliances" read "large-scale sharecropping". The priority system for plantations is that which has been undertaken in Malaysia, Thailand and Indonesia where there have been terrible ecological effects, destruction of the forests, massive con-

94

tamination of the air with smoke[2] and, furthermore - in the name of "development" – the cultural and ethnic destruction of indigenous populations[3].

To complete this scenario, it is worth mentioning that markets such as those for African palm cannot currently look forward to a secure future because, for example, in the first quarter of 1999 production increased by 24% and exports by 12% whilst alongside this international prices fell by 25% and domestic prices dropped 31% over the same period[4].

> *"There are various reasons for the fall in prices. There has been an increase of 1.8 million tonnes of soya bean in the United States in comparison with 1998. A greater supply of soya and sunflower oil is also expected, due to record harvests in Argentina and Brazil. World production of palm oil will show an increase of 1.3 million tonnes on the previous year. On the other hand, the significant devaluation of the Brazilian currency, the reduction in taxes on Indonesian exports and the lesser purchases on the part of China, the country which, alongside India has been creating 50% of the growth in overall demand for oils and fats in the last three years, are all additional factors that have contributed to the change in prices."*[5]

But despite the importance of the discussion on the economic prospects for palm oil, the first thing that has to be considered is the perspective of the large cattle rearing landowners and agroindustrialists who wish to continue an historic system of domination and concentration of land ownership and the economy, alongside the destruction of indigenous and forest cultures.

For the Colombian government, with its so-called "Plan Colombia", it is now harvesting economic support in various states, linking these "production plans" with the destruction of illegal crops in the Amazon by means of aerial fumigation with herbicides and fungi and their substitution with crops for "production projects, primarily permanent crops...through strategic alliances"[6] between investors, large and small landowners, offering "opportunities for alternative employment and social services for the population in the areas under cultivation". The Plan will subsequently be extended to other areas of the country.

Now that the coffers of the State have been emptied by the fiscal crisis and the political corruption of the leaders of the traditional parties, they will use the "Plan Colombia" to gain money from the "international community" for an operation that will be of personal benefit to the agroindustrial business sector.

95

To this perspective must be added that of the foreign investors, which complements and influences the landowners' perspective. The intention of various of these investors, for example, the oil companies, is to use the "stick" of the Plan Colombia[7] to "freely" extend their activities. This "freedom" has historically implied ignoring the rights of local communities, avoiding the need to defend the environment and ecosystems and reducing State royalties and participation.

The government's draft agrarian law, in accordance with this vision of the supremacy of "production projects" and of "principle activities that will serve as a productive nucleus", eliminates the need to come to an agreement with indigenous peoples, their authorities and organisations, and ignores the programmes for formation, extension, restructuring and reorganisation of the Reserves, an obligation which is still valid by means of decrees 1397 of 1996 (regulating ILO Convention No. 169) and 1690 of 1997 (this latter has the character of law as it was issued by virtue of the extraordinary powers of President Samper).

To complete this, with regard to agrarian reform activity - including the acquisition of lands for indigenous peoples - the official plan demands TOTAL consistency with municipal and departmental plans. For the indigenous, this means the possibility of recovering land will be dependent upon the will of the municipal mayors and departmental governors who, in the vast majority of cases, are the political agents of the landowners or are themselves estate owners. In fact, to give but one example, the furious opposition to the formation of the indigenous reserve of Juradó has been headed by the successive governors of the Chocó, the mayors of Juradó and the Chocó political elite.

To that which is being proposed by the official plan must be added the fact that, whilst the law for the Development Plan already established the "production projects" and "principle activities" in 1999, it stipulates that the Peasant Reserves, a conquest of the peasant movement, will not be established on the agricultural frontier but in settlement zones, thus seriously affecting the indigenous territories, and safeguarding the interests of the owners of agricultural lands. These owners are currently not putting their land to good use, awaiting a price rise that may be brought about by the large investment projects.

The government wanted its draft law to be processed as quickly as possible and it thus sent an "urgent message" to the Congress of the Republic. But it has still not been possible to get this project approved, thanks to the submission of an alternative project drawn up by the peasant organisations with support from indigenous groups.

The Violence

It is within this context of transnational pressure on their territories that the violence occurring against indigenous people has to be seen. More than three hundred indigenous leaders have been assassinated since the 1991 Constitution recognised the rights of indigenous communities. The paramilitaries, the national army, the police, the guerrillas, the landowners and their paid assassins have all committed these atrocities which, in any case, all revolve around the aim of usurping territory from the indigenous.

Not only the indigenous but also their collaborators are murdered or threatened. Such was the case of the Basque aid worker, Iñigo Egiluz, and the Colombian priest, Jorge Luis Mazo, who were murdered in November by a paramilitary group in Quibdó, Chocó. They were working with indigenous and black communities and particularly with those displaced by the violence. Such was also the case of the murdered leaders of the Embera Katío people of the Alto Sinú, Alejandro and Lucindo Domicó, killed at the hands of paramilitary groups operating in the region and defending the hydroelectric plant. The continual threats against other leaders of this people and their advisors, the disappearance of the *Embera Vive* campaign manager, Jairo Bedoya, the murder of the aid worker working with the U'wa, Terry Freitas, and the indigenous workers from the United States, Ingrid Wishinatawok and Lahenae Gay, by a front of the FARC guerrilla in Arauca, also need to be mentioned.

In many cases, indigenous peoples have avoided being displaced largely due to their great knowledge of their territory, which has enabled them to flee or hide when threatened and because the 1991 Constitution declared the Reserves inalienable in order to avoid expropriation on the part of large economic projects. Nevertheless, there have been forced displacements, particularly in the area close to the river Atrato where the inter-oceanic canal is planned.

With the precedent of article 142 of Decree 1122 of 1999, and the repeal in Mexico in 1993 of article 27 of the Constitution, which declared the inalienability of communal lands, indigenous people fear that the guarantee of inalienability over their lands may be withdrawn at any moment and that they will be subjected to the same system of forced displacement as the peasant farmers.

In fact, President Pastrana announced to the business community in a Congress in Cali on 11th February 2000 that he was planning Colombia's entry into NAFTA and a constitutional reform to give full freedom to investors, which is the double formula applied in Mexico and which led, on the one

97

hand, to the elimination of the inalienability of indigenous lands and, on the other, to the Zapatista uprising.

Notes

1 *"Cambio para construir la paz. Plan Nacional de Desarrollo 1998-200, Bases"* pp. 260-261

2 SIMONS, Lewis M (text) and Michael YAMASHITA (photos) *"Plague of Fire" National Geographic*; August 1998.

3 DJUWENG, Stepanus 1996 "Desarrollo contra Sustentabilidad: una cuestión de confrontación ideológica", in *IWGIA Indigenous Affairs* July/August/September 1996 Nº3.

4 "Cultivadores de palma con futuro difícil" El Espectador, *Diario Económico*, 29th May 1999.

5 El Espectador, *Diario Económico*, 6th June 1999.

6 *"Plan Colombia: Plan para la Paz, la Prosperidad y el Fortalecimiento del Estado"*, draft annexe in support of draft law S1758 Alliance Act, by Senators Coveredell, Dewine and Grassley, *"grass roots"* translation, special supplement Nº1, Octobber 1999, p. 27. The European version of Chapter Five presents "the construction of strategic alliances (private investment)" as "Democratisation and Social Development". The version of the High Commissioner for Peace and the Department for National Planning, *"Plan Colombia"*, Puerto Wilches, December 1998, maintains that, "economic alternatives that are the result of a process of agreement, with private companies, distribution companies, government and active participation on the part of the community, *"strategic alliances"*, will be sought. The projects must take into account criteria of economic, social, environmental and institutional sustainability."

7 Vice President of Oxy defends the aid package for Colombia *"Estados Unidos debe proporcionar el garrote"* EL TIEMPO, 18th February 2000, Bogotá.

ECUADOR

The June 1990 uprising was the start of the official entry of the Ecuadorian indigenous movement into the political and social affairs of the country. Its power to organise, which has developed gradually over the past fourteen years (since the Confederation of Indigenous Nationalities of Ecuador – CONAIE - was established), has led to a progressive and overwhelming role at national level. The fundamental characteristic of the indigenous movement in Ecuador (apart from the fact that indigenous people constitute approximately 45% of the national population of 12 million inhabitants) is that it is the only social

98

movement that has a consistent policy of structural change of the country towards a new State organisation.

In fact, during the government of Abdalá Bucaram (and his desire to control the indigenous movement), it was precisely the indigenous uprising that contributed enormously to his downfall on 5th February 1997. Then, the central premise of CONAIE was the establishment of the National Constituent Assembly as a possible way of re-establishing the foundations of the country. It was in this context that the indigenous peoples achieved constitutional recognition of their collective rights and ratification of ILO Convention No. 169. However, the plurinational premise was not accepted by members of the Assembly.

Undoubtedly, indigenous participation in the fall of Bucaram and the political negotiation around the Constituent Assembly have formed the milestones in the new role of the indigenous peoples. At the same time, national demands and proposals have been added to the more specific demands on the indigenous agenda. This means that, although indigenous demands and proposals were based around their own rights, they also included issues relating to the wider national agenda. This became clear during the Mahuad government, which had to resist three uprisings, the last culminating in its downfall.

The first uprising against Mahuad (March 1999) had its origins in his unpopular adjustment measures, the absence of social policies and his clear subjugation to the interests of the private banks. Here, CONAIE demanded the creation of a Fund for the Development of Indigenous Nationalities and Peoples, resources for bilingual intercultural education and frequencies for community radio. Other demands were: the unfreezing of Ecuadorian bank accounts, the freezing of fuel and electricity prices and the establishment of a process of national dialogue in order to search for a jointly agreed solution to the crisis and to discuss the modernisation of the State.

After six months of fruitless discussions and an intensification of measures in favour of banks and economic power groups, the second uprising took place in July 1999. Here, the March proposals were reiterated and a proposal to clean up the corrupt financial system was also included. In the following six months, fifty discussion meetings were held with no concrete results; the absence of will to fulfil the agreements signed during the two previous uprisings was more than evident.

To all of this had to be added the government's decision to allocate 52% of the State budget to payment of the external debt, the determined efforts to privatise the social services, the proven bribery of the bank in Mahuad's electoral campaign and the decision to make the economy a "dollar" economy.

99

These were measures that contrasted with levels of poverty affecting 70% of the population, a 60% rate of child malnutrition, a basic salary equivalent to 40 dollars, corruption, etc etc. It was in this context that the third uprising took place, which led to the overthrow of the government.

Antonio Vargas, President of CONAIE, led the indigenous uprising and formed a triumvirate that replaced the outgoing President (Mahuad) for approximately three hours. In the days following the event, the explosion of racism on the part of the traditional power groups, for whom the very idea of the presence of an indigenous person in a leadership position within the government meant the collapse of their status quo, was truly incredible.

Indigenous mobilization in Quito against Mahuad (Foto: IWGIA archive).

Alliance with the Military?

In recent years, and increasingly following the signing of peace in Peru, the mistrust and confrontation between indigenous peoples and the army has given way to a process of rapprochement. This is related to the fact that the armed forces wish to seek a new role in the country without losing any of their real

J - 100

power. For their part, through a logical pragmatism, the indigenous consider the military to be actors alongside whom they have to face conflictive issues.

During the last uprising in Ecuador, the military hierarchy - in an unprecedented action - undertook a direct rapprochement with the CONAIE leadership. The armed forces, experts on CONAIE's challenging of the institutional decomposition of the country and the dramatic economic crisis, proposed a joint action aimed at putting an end to the causes of the crisis, principally the corruption. It was clear that the military had closely followed the indigenous process and its plan.

The strategy they proposed was one of large-scale social mobilisation, capable of bringing about a non-violent structural change within the country. However, due to internal and external pressures, and because it sought to avoid appearing to be staging a coup, the military hierarchy fell into the trap of using a double-sided discourse: speaking of a strategy for change with the indigenous but in public showing support for the "democratic order". And so when the indigenous uprising had gained strength, and with the National Congress and the Supreme Court of Justice already involved, the sector that intervened regarding the ambiguity of the leadership was that of the army's middle ranking officers, largely colonels. They are currently in prison and being tried by the military courts in a kind of internal purge that seeks to mend the huge internal rift caused within the armed forces and which will undoubtedly take a long time to be resolved.

The indigenous leadership's decision to accept the support offered by one section of the military in order to fulfil the aims of the uprising was a strategic one that did not work because the said support was withdrawn at a crucial moment. This was due in part to the fact that there were divisions within the three branches of the armed forces, and that the decision for an exclusively military coup was conceived in the heat of the moment.

With this decision to opt for a kind of alliance with the military, the indigenous put into practice what many of the traditional sectors had considered but which, because of the hypocrisy characteristic of many Ecuadorians, they had not done for fear of appearing to be involved in a coup. But it should be noted that CONAIE did not make the first move towards the military by proposing support of their objectives. It was the military who made the first approach in order to exchange views on the crisis and to propose the possibility of an alliance. This signified a break with the traditional Ecuadorian policy of "knocking on the doors of the barracks". And it also shows how the armed forces' understanding of indigenous peoples was undergoing changes, because it now seems that they consider them not so much as "subversives" or

101

"a threat to national unity" but rather that they recognise them as the subjects of social change.

In the face of a doubtful democracy, indigenous people - whether in favour of a coup or not - accepted that the military should be involved in their project for transformation. This was undoubtedly an error, as such a possibility could only have been considered via the process of a peace treaty between the military and the indigenous. Only then could they put an end to the age-old confrontation between the defenders of national unity and those seeking to build a pluralist country. But, for this to happen, much time still needs to pass before the mindset of the armed forces – and the current framework of the State - changes.

Closer to Home

Over the three last years, the organisational process in which the indigenous peoples and nationalities of Ecuador have found themselves is one of a complex transition from the "union" style indigenous structures to structures of self-government. It has been a question of overcoming the stage of corporate style of organisation, with an almost union type of discourse, in order to commence - under the focus of nationalities and peoples - a process of revitalisation of indigenous society that would imply self-determination.

One fundamental task in this process is the unification of the different organisational factions regarding indigenous democracy in practice. Their tendencies and motivations are often religious or unionist and have, to this very day, divided the peoples. Another aspect for fulfilment of this process is the need for a clear definition of electoral participation as a strategy aimed at guaranteeing indigenous presence within the instances of power, in accordance with the State model being proposed. Finally, the ground rules need to be established with regard to relationships between the Indigenous Nationalities and the State, so that fulfilment of indigenous rights, including participation in governing the country, does not mean the creation of institutional ghettos for indigenous peoples nor their being co-opted by the monocultural State.

The Current Situation

Following the events of January, Mahuad's successor (Noboa) proposed reopening the dialogue with CONAIE, thus forming a *sui generis* body known as GANE (the Great National Ecuadorian Agreement). However, within this context, the absence of a will to discuss and find answers to the basic issues that had formed the basis of the uprising was once more revealed.

102

Under the paternalist and prejudiced understanding that 'a solution to ethnic problems will help maintain social peace and consequently national unity' - an absurd interpretation - the regime aimed to make aspects where the State is already constitutionally obliged to provide guarantees to indigenous peoples (without the need for grandiose accords) appear as "great agreements", things such as: greater attention to education, handing over of sites of historic and cultural value, electrification, etc.

Three months have now passed since this attempt to ridicule the indigenous movement, without the government or other state bodies embarking upon a discussion of the structural crisis the country is experiencing. Because of this, in the middle of April, CONAIE suspended all discussions with the government. The country's situation post-Mahuad has worsened and the Government is ready to seal the 'dollarisation' of the economy and to apply the structural measures proposed in a letter of intention to the IMF which, amongst other things, will imply a 120% increase in the price of oil derivatives. CONAIE is preparing for another uprising.

PERU

Throughout 1999, the political arena was marked by a strained pre-electoral climate. The government, which has been campaigning for some time now, has been forced to pass over legislation, the Constitution and even ratified International Treaties to achieve its re-election. There is a general awareness amongst the public that democracy is in severe decline, and confidence in State institutions, which are put – like the budget – to the complete service of continuity, is very precarious. The legislative and judicial powers, public ministries, electoral system and the State apparatus as a whole are visibly subordinated to the interests and objectives of a few decision-makers. The Ombudsman, a lobbying body, autonomous but not self-sufficient, has remained the only (overburdened) democratic recourse that still retains credibility amongst the people.

Although few doubt that a detailed and widespread electoral fraud is being prepared (for which the previous processes have served as a test), the population has remained polarised between those who opt for civic responsibility and who are not prepared to permit an electoral farce (whether they consider Fujimori has had positive achievements during his term in office or not), and those who opt for a precarious survival which the government now

103

guarantees them through programmes of food aid, whether they approve of the authoritarian nature of the regime or not.

The unusual presence of central government in the furthest corners of the country, with social programmes that have deprived the municipalities of this role, has been directed at creating a mass movement of popular support amongst the most needy and dependent people and at generating local supervisory and coercive teams that have a strong bearing on critical social movements.

As far as indigenous peoples are concerned, their treatment during the pre-electoral year has hovered between compromises with which to polish the government's image and real policy proposals. With little electoral power in relation to the migrant workers who aspire to occupying indigenous lands and who are receiving titles en masse from the PETT (Special Land Titling Project), indigenous peoples are not functional to the interests of the government, as has been made clear in the legislative reforms. In fact, in terms of State interest in the Amazon, the following are crucial: oil and mineral policy, the privatisation of land plots, a long term policy of concessions, a policy of road building and a policy of promoting investment aimed at facilitating income complementary to private business, generally on the basis of activities with an immediate return on investment. All these areas of interest find one single social sector blocking their path: indigenous people, who see in each of these an underlying threat to their autonomy and their rights.

Nevertheless, important sources of international funding and human rights monitoring bodies - for different reasons - are particularly careful to keep the indigenous issue in the news, which forces the State to maintain a dual policy of declaring agreements and recognition at a visible level alongside irreversible actions at local level, by mobilising a social contingent of government followers.

Indigenous Lands

In spite of the fact that 55% of the farming land of the country is collectively owned, this type of property has remained unprotected and subject to common private law ever since implementation of Law 26.505 (the Land Law). On the other hand, in spite of the ease with which individual titles are awarded by the PETT (requirements are the presentation of witnesses and demonstration of one year's possession), the difficulties in titling communal lands become ever greater by the day and approximately 28% of indigenous communities are either not titled or hold incomplete documents. The organisation claims a lack of resources but since September 1999 more than 220,000 individual titles have been awarded.

One critical area is that of territorial security and development policies. Latent threats continue in the Amazon from the system of privatisation of free lands and the decisions regarding which plots are put to auction. Indigenous populations can be found on many of these plots, including some uncontacted peoples (those who are voluntarily isolated).

The announcement of any construction of, or repair work to, penetrative roads has had an immediate effect and has led to mass invasions onto the routes announced, as in the case of the *Aguaruna* communities of San Ignacio. Other legal or administrative initiatives, for which there has been no consultation, put the indigenous territories at risk. Thus the creation of natural protected areas on titled territories, the new Forestry Law proposals, the laws affecting the property of the urban centres of Traditional Peoples, the Law of Exploitation of Natural Resources, the promotion of the individual division of plots, the relentless taxation of Communities undertaking forestry activities, the virtual paralysis in granting collective titles, the refusal to accept proof of the illegality of forestry contracts in the Selva Central, the invasions promoted by official projects such as the PAR and other initiatives, all seem to complement the aggressive treatment of indigenous property that is made possible by the Land Law (Law 26.505) and which marks the sharp contrast between the indigenous model and the official model of exploitation of the Amazon.

In concrete, it has been the logging sector that has been the most aggressive over the last few years, beginning to split the cultural and social bases on which the traditional management of territorial resources are based.

Condemned to Exile

The *Asháninka* communities were decimated by the violence in which they participated in defence of their peace. Many communities were forced to leave their territories because of this. In the Pangoa region and other neighbouring areas, the existence of large logging contractors who were granted illegal rights at the time of greatest conflict and who are now firmly defended by the local officials, has put obstacles in the path of their return. Decree 838, aimed at encouraging the rapid titling of those affected by the violence, has been denied the indigenous communities but has been used to provide lands to recently arrived settlers, discouraging indigenous hopes of recovering their ancestral lands.

For the past seven years the regional indigenous organisation, ARPI, has been organising numerous operations and campaigns amongst its members,

105

as well as at national and international level, but their rights continue to be denied them.

A recent study by CARITAS Peru notes that, amongst these populations, child malnutrition can be as high as 91%.

From Aggressed to Aggressors

The *Huambisa* community of Villa Gonzalo, which is situated on the right bank of the Santiago river, achieved the titling of its community over an area of 13,200 has. of which only 2,112 has. are suitable for agriculture. This titling took place when the community had only 850 inhabitants and three annexes. The population has now increased to 3,000 and there are seven annexes, leading to greater demand for - and pressure on - the natural resources and land. For this reason, in 1986 official negotiations with the Ministry of Agriculture began regarding an extension of the communal plot over a bordering area traditionally occupied and arbitrarily excluded from the original demarcation. The community had been undertaking actions of reforestation in this area, their plantations and good management being recognised by the Río Santiago District Municipality.

In one of the annexes, Puerto Galilea, settlers coming from Cajamarca and Piura, in collusion with and supported by some local government employees from the Nieva Agrarian Agency, invaded an area of 3,179 has. and formed a cattle producing cooperative on the traditionally occupied lands. Since their arrival, these settlers have been in constant conflict with the community of Puerto Galilea, which has been requesting a peaceful and permanent solution to the problem from the Ministry of Agriculture. A sight inspection was carried out, whose recommendations recognised the rights of the community and the need for a solution in their favour.

From that moment on, the settlers began to denounce community members - in collusion with the authorities - to the Provincial Prosecutor's Office of Condorcanqui. The judge accepted the inquiry, a legal process was undertaken and on 10/02/97 four community members were found guilty, by trial, of crimes of misappropriation. Their conditional release was offered in return for payment of S/250.00 per person every month for two and a half years, a sum outside the means of all community members, who do not have the financial resources to cover such amounts.

On 19th April 1997, twelve police, together with the Provincial Public Prosecutor, tried to arrest the community heads and members, which led to a clash with the Huambisa women who managed to throw out the police and the Prosecutor. As a consequence of the disturbances, the settlers denounced

a group of 12 indigenous leaders and members - this time for the crime of breach of public security. The head of the Chosica community was sent to prison. The national organisation, AIDESEP, took up the case and he was given a conditional release. More recently, the Community teacher, Simón Noningo, who was travelling to the town of Nieva to start work, was arrested and he is now in the Bagua Grande prison. There remains an order out for the arrest of 15 more community members.

> *"Paradoxically, and in spite of the fact that we are the age-old indigenous possessors of our lands, we have been declared the "usurpers" of these lands for that very reason, that is, for defending our territorial rights, our physical integrity, tranquillity and communal and social peace. Our families feel unprotected by legal processes and national (Civil Code) and international (ILO Convention No. 169) laws because they are constantly violated by the courts of the area."* (AIDESEP campaign document).

National strategies, Natural Areas and Indigenous Territories

The Peruvian State has established 6 Reserves covering a total of 6 million hectares in the Peruvian Amazon, largely superimposed on top of the titled or traditional territories of indigenous peoples.

In accordance with the Law of Natural Protected Areas, these zones are established because they exhibit the necessary conditions enabling them to be considered natural protected areas (ANP), falling into one of the existing categories although, in some cases, they correspond to international commitments on the part of the State.

One of the Reserved Zones, called Gueppi, covers the districts of Putumayo, Torres Causano and Napo, and includes in its area the lands of the indigenous *Secoya*, *Quechua* and *Huitoto* communities of FECONAFROPU. Another, that of Santiago Komaina, includes 52 Aguaruna and Huambisa communities with titled lands.

In spite of the fact that more than six years have passed since the country signed ILO Convention No. 169, which prescribes the consultation and participation of indigenous peoples in all activities of concern to their territories and their future as peoples, the indigenous communities in these areas have not been consulted by the State regarding the protection of their lands under State supervision and management, despite this already being established by Law.

107

The indigenous people's organisations involved in these Reserved Zones have reiterated the constitutional right to ownership of the land and its autonomous use on the part of the indigenous communities.

In order to rectify the process, INRENA is negotiating funding - with GEF funds through the World Bank - of a project entitled "Indigenous Co-management of Natural Protected Areas": the project proposes implementing specific projects in order to establish 5 natural protected areas in the Amazon with participation from the indigenous population of the zone in order to formulate a viable future for them.

The proposal includes local training in the appropriate management of the area's resources and self-management, conservation and development plans for the area. Furthermore, the Law of Natural Protected Areas establishes that a Reserved Zone requires that complementary studies be undertaken in order to determine the most appropriate and permanent category for conservation purposes, its legal condition, purpose and permitted uses. For this purpose, the State formed a Multisectoral Technical Commission in charge of formulating a proposal for the territorial organisation of these five zones, to include planning with participation from the local population.

The indigenous people are proposing Communal Reserves that will enable them to manage and supervise the area's natural resources in accordance with their traditional knowledge.

In any case, the speed of the establishment of these reserves, which responds to a State strategy, is in contrast with the slowness of the areas requested by indigenous organisations within their own territorial strategies.

Destruction of the forests and the uncontacted indigenous population of Madre de Dios

Since October 1999, the department of Madre de Dios has been thrown into confusion by the scandalous events that have occurred in the logging sector, and which have obliged central government to declare a state of emergency in the most important timber province in the department, Tahuamanu, in whose most remote areas an indigenous population live in isolation.

The roots of the conflict lie in the fact that the Regional Agrarian Directorate gave preference to a powerful sector of the local logging industry - in association with a North American transnational - granting them large areas of forest in places where extraction was not permitted in exchange for support to fund the electoral campaign of government officials in the agrarian department, who were standing for seats in the province's municipalities.

These contracts affected another powerful and interested logging sector. They submitted complaints to the central government authorities regarding

these illegal contracts, which had already caused the deforestation of 500,000 hectares in only the first year of opening up of these new areas to logging.

During 1988, in what was to be the largest deforestation undertaken in the country, 217 illegal contracts were granted in the province of Tahuamanu, covering an area of one million hectares. With the aim of extracting as much wood as possible, the illegal loggers did not think twice about building a road more than seven metres wide and 180 kms long using heavy machinery.

Preliminary calculations show that they extracted tens of millions of board feet of wood from this area, representing hundreds of millions of dollars profit.

When the government found out that these companies had armed personnel working as foremen in their operations camps, it declared a state of emergency in the province and mobilised army troops to maintain order. The government subsequently decreed the suspension of all forestry activity in the province and dismissed the Regional Agrarian Director and the President of the CTAR (regional government), who was closely linked to one of the President of the Republic's main advisors, this latter also being accused of involvement in illicit actions of granting large forestry concessions in unauthorised zones. An inquiry was launched to determine all those responsible.

The paralysis has caused a negative impact on the population of the province, which is made up of small extractors devoted to logging as a principle source of subsistence. They are demanding that the government normalise logging activity by means of a system that prioritises forest contracts for those who are native to the area, thus avoiding the entry of transnational companies and forcing resources to be extracted in a planned and rational manner. They are afraid that the suspension might be a preparatory strategy with which to initiate a public tender in which large concessions will be offered to foreign companies.

FENAMAD (the local indigenous federation) had, months earlier, expressed its concern regarding the devastation of the forest in the Las Piedras basin in Tahuamanu province, warning in public fora and the local media that if extraction continued at such an accelerated and uncontrolled rate then it would be moving dangerously close to the indigenous population living in isolation and that, if this were the case, their lives would be at risk of contagion from the illnesses of foreigners.

On receiving no positive response from the local authorities, FENAMAD decided to alert national public opinion and the international community regarding the imminent danger in which the isolated indigenous peoples found themselves. A fierce campaign was undertaken to raise awareness of the local

109

population with regard to the issue, gaining the support and solidarity of private institutions and the population of Madre de Dios.

FENAMAD proposed the establishment of the Las Piedras river basin as a study zone in order to determine the area in which the isolated indigenous people were living and to commence negotiations in order to establish a Territorial Reserve in favour of these people. A letter was signed by many of the region's institutions and sent to central government bodies, the Minister of Agriculture, INRENA, the Ombudsman and the Human Rights Commission of the Congress of the Republic.

There has been no response from these bodies, but it is known that the paralysis of logging activity in the zone, ordered by central government, is also in response to the pressure exercised by FENAMAD through its campaign in defence of the life and territory of these isolated (or not contacted) indigenous peoples.

Up to the end of 1999, the social turmoil caused by the protests of the logging union continued. These protests were aimed at the government's decision to suspend extraction activities of fine woods in the provinces of greatest forestry importance in the department.

No results have yet been forthcoming from the inquiry and it is understood that they will not be presented until after the general elections, with the aim of avoiding criticism from the opposition parties, if government employees are found responsible.

This waiting game is also affecting the safety of the isolated indigenous peoples, as the authorities have not yet responded to the proposal for territorial demarcation in their favour, in spite of the fact that FENAMAD has substantiated the urgency of the requested measures.

Given this silence on the part of the administration, a FENAMAD commission has travelled to the United States to make its views known to international organisations. It has visited the Inter-American Commission on Human Rights of the OAS; the Inter-American Development Bank (IDB), funders of the Economic and Ecological Zonification of Madre de Dios; the Secretary of State of the North American government, requesting this administration to intervene with the Peruvian authorities in order to protect the rights of their indigenous brothers in isolation; and the UN Office of Human Rights and Indigenous Peoples to request their support in defence of the indigenous peoples in isolation, on the basis of the application of international commitments and agreements signed by the Peruvian State.

The campaign has begun to show results. On 3rd May 2000, FENAMAD signed an agreement with the Subregional Agrarian Department of Madre de

110

Dios in order to commence a study of the area used by the indigenous peoples in isolation in the basin of the Las Piedras river and its future determination as a Territorial Reserve in favour of these peoples.

Mining in the Mountain, Drilling in the Forest

The rights reserved by the State over the natural resources located on indigenous lands, both surface (forest soils) and subsoil, have become the main threat to the peaceful enjoyment of indigenous rights.

The concept of an eminent right, motivated by and based on sovereignty, has become a concept of dominion that enables the State to dispose as it wishes of indigenous resources.

Together with the issue of timber, which we have discussed above, the cases of mining in the mountains and oil drilling in the forests are both problems that prevent indigenous peoples from freely and fully exercising their territorial rights.

By 1998, the 4 million hectares under mining concessions had increased to 23 million. This enormous increase in mining has largely occurred on the indigenous lands of Peasant Communities. In fact, of the 5,680 Communities recognised, 3,500 coexist alongside mining concessions. The mining work compromises the water, the soil and the biodiversity, putting at risk all their traditional activities as a whole. The Communities affected by mining have organised to confront these problems, mainly those that originate in the unfair mining rights regulated by article 7 of the Land Law.

In 1999, the number of hectares of Amazonian land conceded to oil companies in exploration and exploitation contracts reached 24 million. All these fall within indigenous territories, either titled or traditionally occupied. Nevertheless, within the whole legal system covering hydrocarbons no regulations protecting the territorial rights of the indigenous forest communities are contemplated. AIDESEP's proposal for regulating the oil companies on indigenous territories brought the government, the companies and indigenous representatives to the negotiating table. The frustration this initiative has caused due to lack of fulfilment of agreements highlights the lack of political will with which the State undertakes commitments to indigenous peoples.

Towards Assimilation: Leaving no Trace

The attempts to deactivate indigenous people's survival mechanisms and historical continuity are not limited to territorial insecurity. The Public Administration of sectors with social or development programmes has a systematic bearing on aspects of indigenous autonomy and culture. Rules of a constitu-

111

tional nature (and thus the subject of binding treaties), such as prior consultation or participation in public service management, are given no consideration by the sectoral authorities, whose political objectives are rarely consistent with the indigenous reality.

In terms of access to administrative posts in sectors sensitive to identity and culture, such as health and education, there has been a clear regression during 1999. General regulations (such as qualifications required, amongst other things) are applied to indigenous candidates in order to put obstacles in the path of their career. A growing percentage of teachers in the indigenous communities are thus *mestizos* with a lack of knowledge concerning, and prejudiced towards, indigenous language and culture. This policy is even being applied in the primary levels of education.

Similarly, during 1999, a number of different alarm signals were received by the national organisations regarding harassment of indigenous health workers. Coercive programmes such as birth control, which accounts for a high percentage of the sector's rural budget, have been rejected by these health workers due to the hostility with which they have been received in the communities. To complaints made regarding a lack of basic inputs for crucial problems such as leishmaniasis, respiratory and gastro-intestinal infections can be added the cases denounced to the Ombudsman of unsolicited sterilisations and cases of death due to deficiencies in the sterilisation programme. The political response has to been to review the administrative situation of all the indigenous health workers. All the places are being allocated to *mestizo* staff and in several regions of the country unqualified indigenous health workers are being threatened with dismissal.

The numerous programmes of social support which, in practice, have deprived the municipalities of their traditional area of responsibility, are being designed in such a way that many indigenous leaders are becoming suspicious. Firstly, the promotional package (water, electricity and satellite dish) forces lineal concentrations of communities that were previously dispersed, thus multiplying the social and sanitation problems. The farmlands end up further and further away and subsistence begins to depend, to a large extent, on State food aid. The State also controls the messages transmitted by the television channels that reach the communities. Secondly, there are not unfounded suspicions that because they are dealing with distant zones that can be monitored only with difficulty, the work budgeted for does not coincide with that undertaken and social support could thus be facilitating the funding of other political operations. Many organisations are demanding that the real

costs be compared with those implemented in mass programmes such as latrine provision.

On a positive note, at the end of the year the Indigenous University of the Amazon was approved. This has been an ancient struggle of the indigenous organisations in order to benefit from the installations left behind by the ILV.

Agreements and Frustrations

As a pre-electoral year, 1999 has been a protracted one in the opening up of spaces for agreement.

Two official drafts of the Indigenous Law were presented by Congressmen of the governing party. Although there was no subsequent follow-up, they led to an initiative on the part of the Indigenous Coordination (COPPIP), which participatively organised its own proposal. This is currently being discussed and improved by the indigenous movement's grassroots.

The creation of a Commission for Indigenous Affairs within Congress also opened a window of hope on the possibility of having a specialised instrument to receive indigenous legal initiatives. The struggle for the Presidency of the Commission amongst Congressmen of the governing party frustrated its establishment and to date it is still not up and running.

Other initiatives put to consultation, apart from that of INRENA for the programme of Natural Areas and the frustrated agreement on the oil issue, have been the Laws of Access to Genetic Resources and the issue of the Protection of Indigenous Knowledge. These are issues of great importance but, obsessed with being the region's pioneer, the body responsible (INDECOPI) has forced them to be dealt with inadequately, which may well have consequences on their subsequent legitimacy and acceptance.

Within the Executive, perhaps the most important initiative has been the creation of a specialised body within PROMUDEH (the Ministry of Women and Promotion) but this body has not undertaken anything of any significance to date. In any case, the deactivation of the Indigenist Institute, ineffective but autonomous, has not been compensated for by these types of structure, which report to offices of a lower level in the State structure.

The judicial power has made no efforts to adapt its sentences and reasoning to the new pluricultural nature of the country. The application of common law, principally relating to criminal law, and the new discretionary powers of the judges in the summary trials (the major activity), together with discriminatory prejudices and a greater sophistry due to the frequency of clashes between indigenous and non-indigenous on the borders of the colonised areas has all caused severe problems of imprisonment, arrest warrants and other

inconveniences that affect the tranquillity, identity and dignity of the indigenous community members.

The large number of prosecutors and provisional judges makes the situation a very unstable and dependent one, such that there is a generalised mistrust of the judicial power in the country (being the least credible power, gaining between 18% and 21% in surveys). It is assumed that it acts on orders from the Executive.

The problem highlights the urgency of developing article 149 of the Constitution, which recognises indigenous jurisdiction and the wide applicability of customary law. Far from paying any attention to this, the government proposal is to create "equitable arbitrators" which, yet again, is a dysfunctional solution from the point of view of indigenous autonomy and its aspirations for an unbiased legal administration guided by criteria of impartiality and a lack of discrimination.

International Meeting of Indigenous Women in Lima

Indigenous women from around the world met from 24th to 27th November 1999 in Lima, Peru in order to participate in the International Workshop "Indigenous Women and the New Millennium". We exchanged experiences regarding what we were doing in our own provinces, countries and regions and at the same time we reflected on the achievements and constraints of the ongoing process to achieve our rights as indigenous women. We also drew up strategies for work and actions to take us into the new millennium.

Given that our opportunities for meeting up are few and far between, our agenda was an overloaded one. However, we arranged things in such a way as to ensure we could achieve the workshop's objectives, establishing communication between indigenous women leaders in Peru and the rest of the world in order to jointly discuss and analyse issues related to indigenous women and to plan common actions by which to promote our participation in continental and international fora.

Our greatest achievement has been that of building our own space in which to meet together as the world's indigenous women leaders, particularly since the meeting was organised by indigenous women from the South. This meeting was a privileged space for multi-directional discussion, enabling north-south, south-south and north-north dialogue.

During the end-of-workshop evaluation, Peruvian women were all agreed that, "sharing our experiences as indigenous women with our sisters in other countries has given us greater strength to continue".

114

During these 4 days of work, we came up with many different and viable results and proposals, which were the product of our work in group and plenary sessions. The project that emerged from the Beijing+5 committee is worthy of mention here, as it concretised the idea of organising a Caucus of Indigenous Women in June 2000 in New York, to be held prior to the conferences of NGOs and States. We chose the International Affairs representative of the Assembly of First Nations of Canada (AFN) to coordinate the organisation of this event and to seek the necessary funding, first sending a letter to the Head of AFN requesting that he allow her to take on this role full time. This he did.

We also drew up the Declaration of Lima, signed by the 18 members of the international group, and the Statement of Indigenous Women of Peru against Discrimination and Racism, which the women of the international group all supported. This Statement will serve to promote an awareness raising campaign against the different forms of discrimination and racism suffered by indigenous women in Peru and the rest of the world.

We would like to highlight another important achievement, which is a product of this rapprochement amongst ourselves, that of the creation of the International Network of Indigenous Women. It is through this network that we will disseminate the results of this International Workshop and exchange strategies for involvement and action in the coming continental and international events. We will take advantage of the coming Caucus of Indigenous Women in June to consolidate our International Network and to develop future actions.

Our challenge now as united Indigenous Women of the world is to find the necessary means by which to make our proposals concrete and to ensure that other meetings of this kind are possible in the New Millennium.

BOLIVIA

1999 has been another year of hoping in vain that the territorial rights of the Indigenous Peoples of Bolivia would finally be consolidated. The process of rationalisation and titling of indigenous lands made little progress, with few results by the end of the year. Of the 30 plus TCOs covering close to 11,750 million hectares that had been requested, and which a 1996 law had prescribed should be titled within 10 months, less than 660,000 hectares had been titled by December 1999, these being in four areas belonging to the Ayoreo people and one of the five areas of the Guarayo territory.

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The approval of manuals with which to verify the rights of third parties settled on indigenous lands on the part of the National Institute for Agrarian Reform (INRA) and the adoption of a methodological guide with which to measure the titling needs of communities on the part of the Vice Ministry for Indigenous Affairs and Native Peoples (VAIPO), both without any consultation and in clear contradiction of indigenous rights, has led to a virtual paralysis in the processes of rationalisation and restructuring.

On the other hand, the National Director of INRA issued Administrative Resolution 098/99 regulating the extralegal procedure for declaring the State lands available for concessions and the national government promulgated Supreme Decree 25532 converting the exploitation of non-timber forestry products into a system of 40-year renewable concessions.

But not only did the government adopt measures that were in contradiction to indigenous rights. It has also shown apathy in implementing decisions adopted by the agrarian reform institutions themselves with the aim of safeguarding indigenous territories. It does not fulfil agreements reached with the organisations such as the issuing of new regulations governing the INRA Law, which were agreed by the National Agrarian Commission following more than a year of discussions between the government and representatives of the agrarian sectors, nor does it comply with the decisions of international bodies, such as the report issued by the Committee of Experts of the International Labour Organisation, concerning 27 forestry concessions granted illegally by the Forestry Superintendence within the area of 8 Native Community Lands.

All this can only be explained by the government policy of promotion of foreign investment and exploitation of natural resources, for which the indigenous territories are strategic, and by favouritism towards individual families, contacts, friends or, all in all, the political allies of the governing party.

Progress in the Rationalisation of the Native Community Lands (TCOs)

Three years having passed since Law 1715 was promulgated (in October 1996), and little progress can be discerned in the area of titling. The recent titling of one area out of the five that make up the territory of the Guarayo people and four community lands of the Ayoreo people must be mentioned as examples of processes that will hopefully not be repeated.

116

Titling of Area 1 of the Guarayo Territory

Only last December, an area of approximately 413,000 ha of the indigenous Guarayo territory was titled. This process was affected, as were other indigenous territorial demands, by the political links existing between the State authorities and "third parties" located within the territory. Initially, INRA delivered preliminary rationalisation resolutions consolidating all third parties in the area being reorganised (all of them illegal), including one forestry concession – also illegal – ("*Lago Verde*"). Apart from unfairly reducing the area, this implied a serious precedent in the application of legal regulations relating to indigenous people's rights. The only argument INRA put forward to justify this measure was based on the large amount of "excess" territory the indigenous people had in relation to the insignificant reduction that consolidating the third parties and the concession would cause, despite being at the cost of sacrificing the most fundamental principles of agrarian law.

One sector of the Guarayo people rebelled against such an unjustified decision but the government initially turned a deaf ear to their demands. This resulted in a subsequent blockade of the Santa Cruz-Trinidad highway in July by the Yotaú community. Because of the blockade, INRA did a U-turn, granting rights to only one third party, still legally unjustified, and serving eviction notices on the other five. As for the "*Lago Verde*" forestry concession, due to the publication of the ILO Committee of Experts report, INRA refrained from consolidating it, leaving it "pending" until conclusion of the rationalisation process.

Up until September, it was thought that the area to be titled would be around 500,000 ha. However, a last minute intervention on the part of the Forestry Superintendence meant that this figure was reduced to 413,000, in anticipation of the provisional recognition of an area of more than 80,000 ha as a contract for forestry exploitation that was currently involved in a dispute being considered by the Supreme Court of Justice.

What we are witnessing with regard to the way in which government bodies apply indigenous rights when bigger interests are involved is clear: only large-scale mobilisations on the part of the communities make effective application of the Law possible. Even so, the mere "intervention" of a State body was sufficient to take 80,000 ha of forest away from its legitimate owners.

In the Spatial Needs Study, the Vice Ministry of Indigenous Affairs and Native Peoples (VAIPO) recommended that an area of 1,350,000 ha out of the total request for 2,205,000 ha be titled. The practical consequence of this reduction in area will be an exclusion from areas in which communities are

settled, areas that are virtually completely invaded by third parties. This will mean that the areas that are finally titled, apart from being insufficient for the development of this people and their identity, will be several dozen kilometres from the places of settlement of their owners, making access, use and effective control of the territory and its native forests difficult.

Titling of the Territories of the Ayoreo People

In 1990, the Eastern Lowlands Project (PTBE) for the development of agroindustry, funded by the World Bank, approved a budget heading known as the "Indigenous Component" in order to mitigate the negative effects of the project on the indigenous populations of the region. A sum of US$800,000 was set aside for the Ayoreo people. Over a period of five years this was squandered on welfare-oriented programmes, backhanders and corruption, whilst their traditional territory was gradually being eroded away. In 1995, in an agreement between the PTBE, the Union of Native Ayoreo of Eastern Bolivia (CANOB), State institutions, the Church and support institutions, preparations began for what was one year later to become the Ayoreo's demand for territory.

During a march in 1996, the Ayoreo people presented their territorial demand, which covered four areas. This was accepted by Law No. 1715 of INRA, along with 15 other demands from indigenous peoples of Bolivia. According to the law, all demands had to be titled within a period of 10 months.

By October 1996, when Law 1715 was promulgated, there was just US$200,000 of the "Indigenous Component" left, and so this was put aside for the process to be undertaken in titling the four areas requested. In order to implement the rationalisation, an agreement was signed between the PTBE and INRA, with the support of the Ayoreo Union and the Coordinating Body of Ethnic Peoples of Santa Cruz (CPESC). This process was to end with the hand over of titles. After a year, and when the final report was presented, it was noted that the measurements did not comply with the technical specifications. This was because information regarding what was required had been neither precise nor sufficient - those in charge of the project had lost the documents. The irresponsible project management made it necessary to repeat most of the work and the funds were depleted.

By this time, new work which was to have an impact on the Ayoreo people's environment had begun - the construction of the Bolivia-Brazil gas pipeline. This earmarked significant funding towards mitigating its harmful effects on the communities and so the Ayoreo people decided to use these resources to recommence the process of titling their territory once more. At the

J. 118

end of 1998, a second interinstitutional agreement was signed between the Development Plan for Indigenous Peoples (PDPI), which managed the gas pipeline compensation funds, the Confederation of Indigenous Peoples of Bolivia (CIDOB), the Ayoreo Union and INRA. This finally made the rationalisation possible.

Before the titles were issued, however, pressure had to be put on VAIPO to recommend titling of the whole of the area requested. It was attempting to get the area reduced, despite it being in the possession of the communities and there being no third party presence. Only under the threat of mobilisations did VAIPO recommend the titling of the whole Ayoreo territory.

Between October and December 1999, the 4 property titles for the communities of Tobité, Santa Teresita, Rincón del Tigre and Zapocó were delivered, covering a total area of 244,736 has.

Administrative Measures That Put Obstacles in the Path of Rationalisation

The process of rationalisation of the native community lands, as defined in the regulations governing the INRA Law, is in itself an obstacle to the indigenous people's obtaining full ownership. The time-scale of 10 months granted by the Law for titling became 700 days in Supreme Decree 24784, the decree that governs this law.

The INRA Law established that the areas requested by indigenous peoples could be modified depending on the results of the rationalisation and the "identification of needs and titling". The regulations governing the Law went further. The process of rationalisation was divided into an innumerable number of stages and it established that the needs had to be identified by means of a study. This study would recommend the areas to be titled taking due consideration of the social, economic and cultural characteristics of the population applying and the quality and capacity for use of the land requested, among other aspects, and that INRA would provide and title the communities with available areas until the spatial needs of the communities were satisfied, in accordance with the study's final recommendations.

These regulations have virtually left the decision regarding how much land to be titled to indigenous communities in the hands of the Vice Ministry of Indigenous Affairs and Native Peoples, a political organ that forms part of the Ministry for Sustainable Development and Planning, whose responsibility it is also to negotiate and grant forestry and mining concessions, concessions for hydrocarbon exploitation, research, ecotourism and so on.

The spatial needs studies have become one of the most difficult bottlenecks to overcome for the indigenous communities in the long and difficult

path towards titling of their lands. The Vice Ministry of Indigenous Affairs defined the methodology for undertaking these studies and adopted a model of mathematical calculation to determine the spatial needs of the communities which, apart from being extremely complicated, does not take into account the reality of the indigenous peoples nor their territorial rights.

The studies carried out for the first territorial demands, the Ayoreo, Guarayo and Chiquitano de Monte Verde territories - apart from consuming large quantities of international funding - involved drastic reductions in the areas demanded. Only following pressurised negotiations by the organisations was an increase in the areas recommended made possible. In the case of the Ayoreo lands, the whole of the area requested was finally recommended as there were no territorial disputes with third parties nor with other interested parties on these lands. In the case of the Guarayo people, out of a request for 2,205,000 has., the study only recommended the titling of 1,350,000 has (it had originally recommended titling 800,000 has). The final study for the Chiquitano de Monte Verde territory, only recently approved, recommends the titling of 944,000 has. out of the 1,060,000 has. requested (the initial version recommended the titling of 828,000 has.).

The indigenous organisations have rejected the content of the studies for several reasons, including the manipulation of community information in order to justify the reductions by means of the formula used to calculate the needs, and the lack of definition regarding fundamental aspects such as the location of areas recommended for titling, aspects which were not corrected in the cases mentioned. The methodological guide and the model for calculation of needs have been particularly questioned, as they are in open contradiction of indigenous rights.

Due to intervention on the part of the international agencies that funded the studies, the Vice Ministry agreed to make some modifications in conjunction with the indigenous organisations. A first agreement was reached by the end of 1999 but, as of writing, this agreement had not been fulfilled. The needs studies continue to be one of the main obstacles to the titling of lands requested by the indigenous people.

Experience to date suggests that VAIPO has exploited this study as a way of reducing the lands claimed by the communities significantly, to the benefit of many illegal third parties who are claiming properties on community lands and forestry concessions (also illegally granted in 1997), and in order to free up areas of strategic importance for natural resource exploitation so that the State can grant concessions over them. In the cases of the Guarayo and Monte Verde territories, for example, the concessions cover areas of 386,000 has.

120

and 122,400 has. respectively, and these may be consolidated by INRA at the end of the rationalisation process, excluding the best forests from the indigenous territories.

In the same way as the methodological guide for the studies was drawn up by VAIPO, the National Directorate of INRA adopted a number of manuals with which to verify fulfilment of the legal requirements for consolidation of third party properties: fulfilment of the Socio-Economic Function of the property (FES) and the absence of errors nullifying the titles or the agrarian processes on which their right to the land was based. The manual for verification of the FES establishes that whatever type of work, however insignificant, on a minimum proportion of the property requested, consolidates the whole of the piece of land in favour of the private applicant. The manual for verifying nullity converts into "relative nullity" that which the law considers "absolute nullity", a situation that can be compensated for by the FES.

The application of these two manuals means that all properties of up to 2,500 has. that are claimed by third parties within indigenous territories are handed over to the applicant third parties, even if they are based on false titles or processes and do not fulfil the socio-economic function.

The manuals were approved by Administrative Resolution of the National Director of INRA in December, with no prior consultation of the organisations or the National Agrarian Commission, despite the fact that there exists a formal commitment on the part of INRA to submit all technical regulations to this body's consideration.

In order to avoid a large part of the Chiquitano de Monte Verde territory being lost into the hands of illegal third parties, the applicant organisation challenged the said manuals. Those applying for the Indigenous Territory and Isiboro Sécure Natural Park (TIPNIS) in the Department of Beni and the Indigenous Multiethnic Territory (TIM II) in the Department of Pando did the same. But despite the challenges, INRA continued using these manuals when rationalising other territories, seriously endangering community rights.

Two meetings have been held to reach an agreement between the organisations and INRA on the most important amendments to be made to the manuals but, on rewriting the manuals, INRA did not incorporate the changes.

Against this background, the process of rationalisation and titling of the TCOs was moving forward only at a forced pace and under great pressure from the communities in order to avoid the loss of their territories. In some cases, where the communities did not have strong organisations or specialist advisors to provide follow-up to the process, the results have been disastrous. The territories belonging to the Weenhayek and Tapieté peoples are examples

121

of this. Of the 194,000 has of the Wehnayek Territory, the area was reduced to 13,000 hectares. Following studies in the field, the requested Tapieté Territory of 51,366 has, was reduced to approximately 12,000 has.

New Regulations Governing the Granting of Concessions That Threaten the Indigenous Territories

The government is painstakingly seeking to hand over large areas of forest in concessions without first legalising the indigenous and peasant rights to the land, overriding fundamental rights that run the risk of ending up extinguished. The National Directorate of INRA passed Administrative Resolution 098/99, which enables available State lands to be declared for concession without the process of rationalisation of agrarian property having been concluded. The government issued Supreme Decree 25532 transforming the rubber and chestnut exploitation being undertaken by companies known as "*barracas*" in the Amazonian north of the country into 40-year concessions.

Both measures perfectly complement each other. In order that the concessions referred to in the Supreme Decree can be granted, it is essential that the lands have first been declared State lands. According to the INRA Law, this can only legitimately be done on completion of the rationalisation of agrarian property. Anticipating this obstacle, INRA issued Resolution 098 which enables them to be declared State lands in only 60 days and with no rationalisation.

INRA's Resolution 098/99

One of the most serious attacks against the rights of the Indigenous Peoples of the Bolivian Chaco, Oriente and Amazon areas is the issuing of resolution 098/99 by INRA in July. This resolution, which the government tried to promulgate throughout 1998 by means of a Supreme Decree, has established an extralegal and summary procedure for the determination of Available State Lands. The aim is to grant them as forestry, research, ecotourism or biodiversity conservation concessions to private firms, NGOs etc. To do so, it evades a fundamental requirement established in the INRA Law, that of the rationalisation of agrarian property, in order to determine the State ownership of agrarian lands.

Those most affected by this measure are the indigenous peoples, for the procedure enables lands belonging to them but that are yet to be titled to be declared State lands for concessions, with no possibility for them to intervene in defence of their rights. In effect, of the areas to be declared available for concessions, only lands that are "*duly recognised*" are excluded, a term which

122

the government has interpreted - for the purpose of forestry conversion – as being those that have permanent and finally delivered titles. Even lands currently under the process of rationalisation are not spared, which is inexplicable if you take into account that areas subject to other methods of rationalisation are excluded.

As this resolution enables lands in the process of rationalisation to be declared State lands available for concessions, it obviously also does not exclude the possibility of recognising as State lands those indigenous lands that have yet to be requested. The procedure approved by INRA does not anticipate the exclusion of areas used by indigenous peoples or communities that have not yet been requested. Neither does it admit opposition with this as the reason. The indigenous and peasant communities that are created with land rights have a period of ten days in which to intervene, having to present for this purpose a whole string of documents and certifications from authorities that may even have an interest in the areas being declared available for concessions.

There thus exists no provision within the procedure approved by Administrative Resolution 098/99 that clearly indicates that the native community lands, whatever they may be, recognised or not, with final title or not, will be excluded from the areas to be declared State lands available for concessions. Quite the contrary, the procedure seems to have been meticulously drawn up with the aim of restricting indigenous rights over their native community lands, at least, those in which there still exist forests of interest, with the purpose of granting these lands as concessions.

So, in the face of concessions, fundamental agrarian rights that take preference in agrarian and forestry legislation end up being unfairly discriminated by having to be subjected to a long and costly process of rationalisation, at the end of which the land available for provision is decided whilst, in a rapid and effective procedure – and without prior rationalisation - State lands available for concession are determined through a process of preferential treatment. If one considers that, as established in Law 1715, the requests of the rural landless and of those who have insufficient land (populations along the banks of Lake Titicaca owning unproductive furrows and miniplots, land that has been destroyed by the effects of mining such as that to the north of Potosí, or the overpopulated valleys of Chuquisaca and Cochabamaba) cannot be accepted or processed until the process of rationalisation of agrarian property in each area has been concluded, then it is completely unfair to undertake and satisfy requests for forestry concessions via a preferential path, as if they have the greater right.

It did not take long for this resolution to be applied. In August 1999, INRA issued 10 certifications of State lands in the dry forest of Chiquitano, covering an area of more than 800,000 has. in order to grant forestry exploitation concessions there. The Chiquitano dry forest is a fragile ecosystem, the only one of its kind still in existence in Bolivia and one of the few existing in the whole world, home to a wide biodiversity that has been the source of survival of the Ayoreo and Chiquitano peoples. These peoples have for centuries used these forests without damaging them, and for this reason they form part of their Native Community Lands, which to date have not been requested. It was not possible for the communities to intervene in the process because appeals were only accepted after certain periods of time had expired.

Indigenous organisations and a number of National Deputies, faced with this new violation of the rights of indigenous and peasant populations, filed appeals for nullity and unconstitutionality before the Constitutional Court. The appeal for nullity was rejected in an absolutely unfounded judgement. As the Court itself recognised in its Ruling, no analysis of the content of the challenged resolution was undertaken. An indirect appeal of unconstitutionality, filed against the resolutions that declared the Chiquitano dry forest available, was rejected by the National Institute for Agrarian Reform itself, which had no power to do so, and its decision was arbitrarily ratified by the Constitutional Court, avoiding even an analysis of its competence. A third direct appeal of unconstitutionality, filed by the National Deputies, was denied by means of a further ruling lacking the most minimal analysis of the alleged violations of the constitutional statute. The Court declared the challenged resolution valid, basing itself on brief affirmations or negations. It should be noted that within these statements, the Court stated that the agrarian rights of indigenous and peasant communities were not being damaged because they were defined by Law, assuming that the mere legal statement of such rights implies their fulfilment.

Supreme Decree 25538

On 6th October 1999, President Hugo Banzer promulgated decree Nº 25538 by means of which "*the chestnut and rubber companies known as 'barracas' are recognised as forestry concessions for non-timber products*", with exclusive rights of use over timber products. This Decree is not only in contradiction of the Forestry and Agrarian laws, but also endangers the titling rights of indigenous and peasant communities throughout the whole of the northern Amazonian region and denies them their right to exploit forestry resources. But more serious still is the fact that the Decree implies recognition of the

right to titling over the areas exploited on the part of the companies in an attempt to revive the effects of legislation brought in at the end of the 19th century and which was abolished by the agrarian reform of 1953 and by reforms to the Constitution and to the forestry and agrarian systems adopted during the 1990s.

One of the highest rates of land concentration in the hands of rubber and chestnut companies can be observed in the department of Pando and the north of the departments of Beni and La Paz, which make up the northern Amazonian region. Here they control more than 90% of the lands, along with the respective access to forests and forest resources. According to recent information from the National Director of INRA to the Apostolic Vicariate of Pando, 240 owners of "barracas" have requested a total of three million four hundred thousand hectares. If Decree 25532 is applied this will consolidate yet more the excessive concentration of land into a few hands, despite the fact that division of land into large estates is prohibited by express regulation of the Constitution. It also ignores the mandate of the authorities to protect and guarantee the agrarian rights of indigenous and peasant peoples and rules out the possibility of providing land to the majority who have no or insufficient land.

Although D.S. 25532 establishes that areas superimposed on native community lands and peasant communities may not be submitted to the process of conversion, it is foreseeable that what happened in the case of forest conversion for timber products will occur. These were approved by the Forestry Superintendence in 1997 with the argument that they were not "duly recognised". In the Amazonian north not one single metre of land has been reorganised and only recently, with the pressure and mobilisation of the communities, has INRA been obliged to undertake promises of rationalisation, which have not yet come to fruition.

Rubber and chestnut exploitation is being undertaken in regions traditionally inhabited by the Araona, Chácobo, Esse Ejja, Pakawara, Tacana, Yaminawa, Machineri and Cavineño indigenous peoples, whose population is currently around 15,000 people. The peasant communities total more than 20,000 inhabitants.

The process of exploitation of non-timber resources in this region dates back approximately 140 years. First cinchona bark and later rubber exploitation led to the loss of most of the lands of the Amazonian peoples, their reduction and subjection to different means of domination, even slavery. Exploitation currently uses temporary salaried workers or a form of piecework, whereby gatherers are paid by the kilo of rubber or by the box of chestnuts collected, at

highly undervalued prices. Salaried workers are regularly paid in kind, with goods required for basic needs being distributed by the owners of the "barracas" themselves and their value being highly overestimated.
The experience of the Amazonian peoples with the extractive industries of rubber, chestnut etc. is a bitter one. The Araona people are the survivors of two families who escaped their captors, when they had been taken to work as slaves on the rubber plantations at the beginning of the last century. At that time their population numbered 20,000 but today there are only 82 of them left.

The indigenous and peasant organisations of the region, the Indigenous Union of the Amazonian Region of Bolivia - CIRABO, the Federation of Peasants of Vaca Diez and the United Confederation of Unions of Peasant Workers of Bolivia, in a Decisive Vote made public on 14th December last, denounced, *"the system of semi-slavery in which thousands of families from the Amazonian north are struggling, a situation that has taken place and continues to this date within the barracas, places where they continue to ignore social rights despite the fact that systems of servitude were abolished by the laws of the Republic many years ago, and which nevertheless continue to benefit those who call themselves businessmen by means of Decree 25532."*
By means of various declarations and mobilisations they have demanded that the national government repeal the decree and, as a method of conciliation, they have proposed that it should not be applied until the process of rationalisation of agrarian property in the region has been concluded.

But INRA is continuing with the procedures to declare the areas claimed by the "barraca" owners as State lands, in application of the stated Administrative Resolution 098/99, and the Forestry Superintendence has almost certainly begun the administrative procedures for the conversions.

As can be seen, this new decree will have a disastrous impact on the traditional hunting and gathering areas of the Indigenous Peoples, as the areas claimed by the "barraca" owners are superimposed on top of them, the decree giving precedence to the rights of these latter over the native indigenous people of the area. This is a new adaptation of what was suffered in 1997 by these same peoples and others of chiquitania cruceña and the Chimanes forest, when more than 700,000 hectares of forest were taken from them in order to grant them to timber companies.

126

The ILO Declaration Regarding Forestry Concessions on Indigenous Lands

In the first months of 1998, the indigenous organisations affected by the forestry conversions superimposed on indigenous territories, represented by the Confederation of Indigenous Peoples of Bolivia - CIDOB, presented a formal demand to the ILO, with the aim of gaining from this body not only a response consistent with the principles enshrined in Convention 169 on Indigenous Peoples but also support in terms of pressure placed on the Bolivian government to force it to change its mind with regard to the decisions adopted.

Their argument was based on the fact that articles 14 and 6 of the Convention had been violated, namely that due protection of the rights of property and possession of lands traditionally occupied and used by the affected communities had not been established and that due consultation regarding the administrative measures approving the superimposed concessions had been lacking.

Following the case study on the part of the Committee of Experts, the Board of Directors published its report in March 1999. The final recommendations that were approved by the Board of Directors established two important principles.

Firstly, that article 15 of the Convention must be interpreted in accordance with articles 6 and 7 of this same legal instrument, thus meaning that the government had an obligation to ensure that the indigenous communities affected were adequately and appropriately consulted with regard to the scope and implications of natural resource exploitation. Secondly, despite the fact that the final legal regularisation of the territories was not yet resolved and that the rights granted to the Indigenous Peoples went further than mere consultation, it recommended that the government undertake environmental, cultural, social and spiritual impact studies jointly with the peoples concerned, *prior* to authorising the activities of exploration and exploitation of natural resources in areas traditionally occupied by them and that, as far as possible, their participation in the benefits of these concessions and their fair compensation for damages suffered because of these exploitations should be defined.

For the Indigenous Peoples of Bolivia the decision represents an historic and legal milestone of great significance. However, the ILO failed to pass judgement on the fundamental demand, which was protection of their right to property and possession of the lands, for it had been hoped that it would recommend revoking the concessions in the areas superimposed on the indigenous territories, rather than recommending a process of consultation, impact studies, participation in benefits and compensation for damages caused. By

127

this latter path, it seemed to imply that indigenous territories could be affected as long as these conditions were fulfilled. This is, notwithstanding, a big step forward for communities that may wish to accept such activities being undertaken on their territories by third party companies.
However, the Bolivian government has given no indication that it will comply with these recommendations, and, on the contrary, it is making efforts to consolidate and extend the concessions.

Amendments to Regulations Governing the INRA Law
For a large part of 1998 and up until October 1999, the so-called Technical Commission of the National Agrarian Commission (CAN) sat in session, formulating the agreed new text governing the INRA Law that was to substitute Supreme Decree 24784, adopted by the previous government without consultation only hours before the end of its term in August 1997.

The multisectoral composition of the National Agrarian Commission (State, business and sectoral social organisations) made it possible to obtain a consensus around important achievements in favour of the peasantry and indigenous peoples who participated in this body.

The amendments agreed within the offices of this technical body were aimed at providing a solution to the previously mentioned problems that are threatening to lead to the disappearance of the indigenous lands. These included the reduction of deadlines for processes to be fulfilled at the different stages of rationalisation; the express provision that the rationalisation of agrarian property, its reversion and expropriation, were the only administrative procedures through which State lands could be identified in the country; and the definition of criteria by which to verify the socio-economic functions of agrarian property cited by third parties during the rationalisation of indigenous lands and for the identification of errors by which to nullify the titles or files on which their rights are based.

As a complement to this last measure another regulation was agreed, aimed at ensuring that third parties claiming large areas of traditional indigenous use – and who are basing fulfilment of the Socio-Economic Function on activities of conservation, ecotourism, research or forest exploitation – have to prove they have the authorisation of the appropriate authority, issued prior to the Immobilisation Resolution relating to the indigenous territory. This provision is very important, given that the simple presentation of plans or projects for implementation of these activities is currently serving as a means to access large areas over which third parties have no right.

128

A provision that makes it possible to challenge the final report of the Spatial Needs Study undertaken by the Vice Ministry of Indigenous Affairs is also worthy of mention, which may be an important means of control in the face of the undeniable political exploitation of the Study on the part of this Ministry, which is using it to reduce the areas to be provided to Indigenous Peoples considerably.

But INRA has taken it upon itself to betray several of the agreements reached by the National Agrarian Commission, including the adoption of measures formulated to consolidate third party properties, and to this end has introduced an article that has not been agreed by consensus, and whose promulgation will automatically leave the manuals approved in December without effect.

The agreed text for the new regulations was sent to the national government two months prior to the end of 1999 but by the time of writing had still not been promulgated as a Supreme Decree.

Conclusion

As can be seen from this summary, the situation of Indigenous Peoples in Bolivia is a particularly difficult one. There is a legal framework that demonstrates really significant progress but the government's will to apply what is provided for in these regulations is in actual fact zero, and the signals that can be perceived on the horizon with regard to a change in attitude are increasingly obscure. This is all the more so when you consider the absence of legal control demonstrated in the cases brought before the Constitutional Court.

The organisational stage of the 1980s and the struggles for demands based on the mobilisations of the 1990s would lead one to suppose that the last year of this five year period would be the one in which the rights that have been gained would finally be exercised. But the government, in keeping with the continental trend to prioritise large transnational investments, is slowly and inevitably contradicting that assumption. The achievement of the rights of the most vulnerable sectors of the population, in this case indigenous and peasant peoples, quite clearly forms no part of the structural plan for social exclusion that is in force throughout the continent.

It seems that, as in 1990 and 1996, for the indigenous peoples of Bolivia there is no other alternative but to resort to such action as may make it possible for them to break free from the state of siege that the State has subjected them to in order to deny them their social demands: a huge national mobilisation is brewing amongst various peasant and indigenous organisations, who

129

are convinced that their rights and demands are most certainly very far from being realised.

BRAZIL

Indigenism in Brazil

Within a general context of debilitation of the federal executive power, various events took place in 1999 that point to a new and unfavourable climate for indigenous interests in Brazil:

- The urgency given by the National Congress to the processing of Draft Law 1610 that regulates mining activity in indigenous areas;
- The delay in the vote on the Statute of Indigenous Peoples,
- The creation of a Parliamentary Committee of Inquiry (CPI) to investigate FUNAI's performance in the demarcation of indigenous lands.
- The reintroduction, on the part of politicians and the military, of the discourse against a supposed internationalisation of the Amazon, associated with the actions of non-governmental organisations (NGOs);
- The opposition of politicians to the creation of Special Indigenous Public Health Districts (DSEIs) in collaboration with indigenous organisations and NGOs.
- The growing coordination of parliamentarians from the so-called Amazonian Group (a group of parliamentarians camouflaged in a discourse of development for the region) in favour of the mining, farming and timber interests that are increasingly intensifying their penetration into indigenous lands.

This scenario is developing at a sensitive time for the indigenous peoples of Brazil and it points to difficult times ahead, in which no-one can guarantee whether the age-old struggle to gain land rights and to maintain a way of life according to custom and tradition will come to fruition or not.

Processing of the Mining Law

The Brazilian Constitution of 1988 establishes a legal distinction between ownership of the soil and subsoil. Being part of the subsoil, mineral deposits are the property of the Union and this latter authorises their exploitation according to the Law.

130

This has opened up the path to exploitation of mineral resources on Indigenous Lands (TIs), whose exclusive usufruct is owned by the indigenous people. However, this usufruct relates only to the "natural wealth of the soil, rivers and lakes" and not to use of the subsoil. This use depends upon the authorisation of the National Congress and it is an indigenous right to participate and be listened to in the process of concessions concerning areas under investigation. In this context, and not forgetting that a large part of the mineral resources existing in Brazil are found on indigenous lands, pressure for regulations and authorisations for exploration is increasing.

To date, the process of regulating the laws relating to mining has not been approved and within the various proposals that are being studied by the National Congress there are some points that need special attention in order to ensure application of the rights gained by indigenous peoples in the 1988 Constitution, such as:

- Restriction of the area of subsoil exploitable in any particular Indigenous Land;
- Participation on the part of the indigenous community in the financial profits of mineral exploitation;
- The free use by Indigenous Communities of resources deriving from participation in the results of mineral exploitation;
- The obligation to undertake an Environmental Impact Study and, importantly, the hearing of the Indigenous Communities affected, that is, the National Congress may only authorise mining on Indigenous Lands after listening to the Indigenous Communities affected.

Exploitation of mineral resources on Indigenous Lands by third parties thus requires well-defined government strategies and policies, particularly with regard to supervision, which it is difficult to envisage in the current Brazilian climate. Today's reference point, that of illegal and predatory "garimpo" (prospecting), has caused serious problems for many communities in terms of health, social degradation, loss of productive lands, and contamination of rivers and sources. Such is the case of the *Yanomami*.

It is also important to stress that, even if indigenous rights are enforced, the communities will have to be prepared to battle with all the social and environmental changes that the results of financial participation in exploration will bring.

The Draft Law still has to be analysed by the Constitution and Justice Committee before moving on to a plenary session of the Congress, where a

131

vote will be taken. A coordination of NGOs, in collaboration with opposition deputies, last year managed to delay the processing of the mining law, holding it up until the Statute of Indigenous Peoples is approved.

Indigenous Health

After many years of discussions, a provisional measure (MP) was reissued in 1999 by which responsibility for indigenous health is transferred from FUNAI to the Ministry of Health via the National Health Foundation (FUNASA).

In fulfilment of the MP, a presidential decree must be promulgated, establishing the principles and standards for implementation and functioning of a national system of Special Indigenous Public Health Districts (DSEIs).

The health situation of the indigenous peoples, particularly with regard to epidemics, has worsened considerably in recent years due to growing contact between indigenous society and the outside world, particularly those populations living around the TIs. This time, the change has the force of law and proposes a system of DSEIs with its own pre-indicated bodies. A good part of the activities and qualities attributed to these bodies will arise out of broad discussions involving the Ministry of Health, FUNAI, NGOs and the indigenous communities themselves, by means of various seminars and conferences.

This is how the new model will look and FUNASA will appoint a "manager" to accompany the development of the project, hold resources and, supposedly, accompany and be responsible for the quality of implementation of the project. In some regions, where the indigenous movement is more organised or where reliable organisations are involved, there have been many actions undertaken in the area of health, such as in Roraima, in the Río Negro region of the Xingu Indigenous Park. There are also non-governmental coordinations that can take responsibility for organisation of the districts and so this means that it may well be a viable model in terms of results.

However, there are some regions in the country where there are no qualified private institutions with a history of relations with indigenous communities. This consequently means that the necessary conditions in which to implement health services do not exist, putting the viability of the model at risk

In any case, this new policy must be seen as an attempt to improve the catastrophic situation of indigenous health to date, although the results will need to be closely monitored to ensure their effectiveness.

132

Demarcation of Indigenous Lands

There was no progress on the part of the Government in the process of demarcation of TIs during 1999. This delay has caused a climate of tension in various parts of the country, particularly in the State of Roraima, whose elite is known for its strong capacity for mobilisation of the State's population against indigenous interests. This power of mobilisation dates back to when the Yanomami Indigenous Land was demarcated. This process began in the 1980s and was only finalised in 1992. Current criticisms revolve around demarcation of the Raposa do Sol Indigenous Land, belonging to the *Macuxi, Wapixana, Ingaricó* and *Taurepang* indigenous peoples. These peoples have for years been arguing that their territories should be demarcated as one continuous area of 1,678,800 hectares.

But the Roraima elite is not satisfied with this proposal from the National Foundation of Indians (FUNAI) and has begun a fierce campaign, along with the State's population, to create antipathy towards the demarcation process and the indigenous peoples of the region. This campaign has also caused concern amongst the Catholic missionaries, indigenous organisations (such as the Indigenous Council of Roraima – CIR) and NGOs in general. The State Governor, Neudo Campos, even reached the point of threatening to close the 138 indigenous schools within the Raposa-Serra do Sol Indigenous Land, should the process of demarcation continue to be concretised.

The campaign intensified in the second half of 1999, with posters being put up in the street and on the walls of houses, with anti FUNAI and NGO propaganda. Armed conflicts are also being forecast in the Raposa Serra do Sol region between indigenous people and landowners and the delay on the part of the federal government in resolving the demarcation once and for all is only aggravating the situation.

Parliamentary Committee of Inquiry for FUNAI

In May 1999, a Parliamentary Committee of Inquiry (CPI) was established by the Brasilia Chamber of Deputies in order to investigate the performance of FUNAI in the demarcation of indigenous lands.

This CPI is largely made up of parliamentarians from the so-called "Amazonian Group" and the direction of the work throughout 1999 demonstrated that FUNAI was not the main objective of the Committee. In reality, this CPI is an attempt to create anxiety by which to sustain an absurd hypothesis, and that is that the demarcation of TIs and the support of some NGOs to a number of indigenous societies is a threat to national sovereignty, thus opening up a space in which to attempt to reduce the lands being demarcated.

To date, this CPI has not managed to achieve anything concrete, as was to be expected. But the simple fact that its establishment was approved by the Chamber shows that the deputies of the "Amazonian Group" are gaining increasing power within the Legislature.

Statute on Indigenous Societies

At the beginning of this year, following six years of paralysis, the Government once again began processing the draft law that establishes the Statute on Indigenous Societies. This replaces the now outdated Statute of the Indian of 1973.

The new proposal, now entitled "Statute of the Indian and of the Indigenous Communities" does not envisage the concept of indigenous society (or people). So what does it envisage?

The text will be sent to the National Congress for amendment and vote. Amongst the changes submitted with relation to the 1973 text in force can be highlighted the revocation of the tutelage of the Union over indigenous peoples, establishing other instruments of special protection for indigenous rights. It does, however, retain powers of a tutelary nature for the indigenist body FUNAI, specifically in relation to the "uncontactable" indigenous peoples and their lands.

The Government proposal reaffirms the permanent nature of indigenous rights as laid down in the 1988 Constitution and thus governs and consolidates them, as well as opening up a space for a more up-to-date discussion on economic, inheritance and business issues.

PARAGUAY

The situation of indigenous people's rights in Paraguay is generally worsening in terms of growing threats to their survival. The 1999 budget for the Indigenous Institute of Paraguay (INDI) – the main body in charge of restoration of indigenous territories - was cut by 58% in relation to the previous year, illustrating the Paraguayan State's policy in relation to the indigenous sector this year.

At one point, whilst promising to respond to the demands made by native peoples during the "*March for Indigenous Dignity*" held on 12th October 1998, the President of INDI during the last few months of the Cubas government, Mr. Martín Lezcano, was actually devoting his energy towards organising

134

further tax evasions. The fall of Cubas and the arrival of the Government of National Unity, led by President Luis González Macchi, frustrated his intentions. However, neither did the successor appointed by this government to take over from Mr. Lezcano, Mr. Optaciano Villamayor, fulfil the minimum requirements for suitability and capability to run INDI. Remarks made by Villamayor regarding rejection of legitimate territorial claims, attempts at fraud in land purchases, internal administrative corruption and other acts of a similar nature meant that a number of the sectors involved in indigenous affairs – NGOs, indigenous organisations, INDI employees and so on, were throughout 1999 demanding - by different ways and means - the dismissal of this official.

In the face of pressure from the leaders of the Enxet and Toba Qom and other indigenous peoples of the Association of Indigenous Supporters (API), President González Macchi finally appointed Mrs. Elena Pane de Pérez Maricevich as President of INDI on 12th October. 1999. She has a better background than her predecessors but her appointment demonstrates that if the State is to develop an indigenist policy that responds to the demands of the indigenous peoples, officials with good intentions are not enough: structural change and real political will on the part of the government are necessary, along with a greater allocation of resources.

Given this need, and INDI's budgetary limitations for 1999 (Gs 15 thousand million = US$5 million), which was implemented to a minimum percentage, no territorial claims pending from previous years were resolved. In formal terms, the situation for the year 2000 was even worse, only Gs. 2,500 million (US$680,000) being allocated. Not surprisingly, by April the Treasury had declared that INDI had exhausted its budget for 2000, which means there are few possibilities for any territorial claims being resolved throughout the rest of this year. This neglect of indigenous issues is also illustrated by the lack of any reference to indigenous peoples in the proposed State reforms that have been presented by the Government of National Unity.

Other alarming and unfavourable occurrences took place during 1999 and the beginning of 2000, such as an increase in indigenous migration towards the capital and towns of the interior – where they form part of the most marginalised sector -, the prolonged drought that largely affected the Western region, the repeated occupations of indigenous lands by poor peasants and the deforestation of these lands. All these things contribute to a scenario of defencelessness and vulnerability on the part of the communities, demonstrating the al-

135

most complete abandonment of the tutelary role the State is obliged to provide to these peoples.

The Offices for Indigenous Affairs within the country's departmental governments played a more significant role in 1999 by disputing a significant part of INDI's budget.– that relating to land restoration. Their conduct, far from being promising for indigenous peoples, has multiplied state bureaucracy at local level. The actions undertaken by these Offices are limited to welfarism and the manipulation of indigenous peoples according to sectarian political interests. The example of the Indigenous Office for the Department of Presidente Hayes, Chaco, is particularly illustrative. Despite being run by an indigenous person, Mr Amancio Benítez, it has demonstrated that the mere occupying of an official post does not necessarily bring about indigenous participation. The Coordinating Body of Indigenous Leaders of the Bajo Chaco, an organisation that groups together representatives from the Enxet, Toba Qom and Nivaclé peoples from throughout the department, has complained that the funds allocated to the said Office have been misappropriated by the provincial government and have in no way benefited the communities. They also demand true participation within the structure of the said organisation, in contrast with the existing orchestrated body which lacks representativeness and legitimacy.

In June 1999, three indigenous Enxet communities - Sawhoyamaxa, Yakye Axa and Xakmok Kásek- comprising around 270 people, held a march to, and subsequent demonstration in front of, the Parliament in Asunción, with the aim of putting forward demands to the three state powers. At first, two of them – Yakye Axa and Sawhoyamaxa – managed to get the Executive to decree a state of emergency for their benefit. This was due to the difficult conditions they were experiencing, camped along the road in front of their claimed lands. But implementation of this decree (consisting of aid in the form of food, health care and education for these communities) has been undertaken only on a sporadic basis by the government. During the aforementioned indigenous action, two proposals for expropriation were also presented by the Xakmok Kásek and Sawhoyamaxa communities (in this latter case for the second time) and rulings were demanded from the Supreme High Court in favour of Yakye Axa, but only one of these culminated in a favourable outcome (see further on).

There is a clear lack of fulfilment with regard to guarantees and rights that are recognised to indigenous peoples by the Paraguayan State, in spite of the existence of an extremely favourable constitutional framework..There are

136

certain actions and circumstances that exemplify this lack of fulfilment and, although some of these can be regarded as historical constants that have not changed despite Paraguay's "democratic" transition and successive governments, given their recurrence during the period under analysis, 1999-2000, some of these actions and situations betray a negative trend in the direction of indigenist policy in Paraguay. These actions are:

1. The reduction in INDI's budget for purchase of lands claimed.

2. The repeated attempts to defraud the State of these funds, noted in both the Lezcano administration and in that of Villamayor.

3. The manipulation of legitimate and conflictive demands with the aim of satisfying the interests of the private landowners affected. Such is the example of the indigenous Yakye Axa community. In this case, both Lezxano and Villamayor tried to convince them to make demands over other lands.

4. With regard to parliament, the manifest slowness and lack of political will to sanction the laws of expropriation in the cases that have reached this body constitute a violation of the territorial rights of indigenous peoples. This is demonstrated by the case of the 78,000 hectares claimed by the Ayoreo-Totobiegosode people (part of a larger claim for 600,000 hectares), a proposal that has been with the Agrarian Reform Committee of the House of Senators for two years, awaiting a favourable judgement.

5. The Supreme High Court denied the Yakye Axa community, stationed along the Concepción to Pozo Colorado road, the right of access to lands they have traditionally occupied in order to hunt and gather there, whilst its restoration is processed. This community – as mentioned – held a demonstration in Asunción in June 1999 in order to demand a final ruling from the Supreme Court, having waited a year for an answer to the action of unconstitutionality brought against the negative rulings of the 1st and 2nd Courts prohibiting them from entering the lands in question in order to hunt. The negative ruling issued by the Supreme Court exhausted all internal possibilities on the part of the community to enforce its rights, and it has thus submitted its case to the Inter-American Commission on Human Rights.

6. In light of the above, it can clearly be seen that there exists no national indigenist policy that places priorities on the area of restoration of lands claimed nor is there a restoration plan in coordination with all the other government bodies involved. There is no clear picture of the amount of land already returned or due to be returned, nor any identification of landless communities, nor of the land required to ensure greater areas for those communities that need it.
7. With regard to health, State assistance for indigenous peoples is completely inadequate. During 1999, many communities faced immense problems with regard to drinking water due to the prolonged drought, which seriously affected many communities. Indigenous people in the department of Itapúa were particularly affected by contamination of the streams they usually take their drinking water from, due to the intensive use of toxic agrochemicals by their neighbours. A number of children actually died because of this.

8. The government has no real or effective programme of formal indigenous education, restricting itself to limited budgets to cover indigenous teachers and a number of academic and administrative supervisory posts, aimed at serving these teachers. Educational materials directed at the cultural specificity of indigenous peoples are few and far between, and tend to be provided largely by private initiatives.

9. The absence of government input into any plans becomes increasingly noticeable with the rise of indigenous migration to the cities. They move for different reasons: lack of secure lands, internal conflicts and lack of subsistence alternatives. Such is the case of the indigenous Mbya, originally from Capi'ibary in the department of Caaguazú, who now live on the Asunción rubbish dump because INDI took no steps to secure the 250 hectares they were occupying in their place of origin.

10. The State has not duly assisted indigenous peoples to protect their habitat from deforestation and environmental degradation. Both in the Chaco and in the Eastern Region, indigenous leaders have denounced the deforestation of their lands at the hands of third parties or by members of their own communities under pressure from poverty. Communities in the Eastern Region, such as the Ava Guaraní community in Itakyry and the Aché community in Chupa Pou are now forced to confront problems of this nature.

11. The State has taken no preventive or dissuasive measures to stop the occupation of indigenous lands by poor peasants. Lands such as those of the Mbya community in Arroyo Claro, in the department of Itapúa and those of Arroyo del Sur in the same department were invaded by peasants, and this is the reason why the indigenous peoples there are facing a situation of conflict and insecurity in their own environment.
12. The State has adopted no firm actions to combat unemployment or to improve the working conditions of indigenous peoples where this is required. One example is the various Ayorea communities in the central Chaco, whose sources of work have dried up and who, for the moment, have no substitution alternatives.

13. Indigenous peoples enjoy the same procedural laws and have the same rights to protection of their physical and emotional integrity from the forces of law and order as other citizens of Paraguay. The public bodies in charge of safeguarding these guarantees and rights are the Judicial Power and the National Police. However, these rights are violated by the very people who should be protecting them. This is demonstrated by the detention of 28 indigenous people from the Mby'a people – of which 8 were minors – in the Pedro Juan Caballero prison, without any trial whatsoever.

This panorama makes it clear that there is a persistent absence of a national indigenist policy which has as its priority the satisfaction of these people's demands in terms of: territorial restoration, health, education, cultural respect, absence of discrimination, real participation, tutelage and implementation of their rights through institutions that are not corrupt, appropriate human resources and sufficient budgetary resources.

CHILE

In 1999 the largest indigenous group in Chile, the Mapuche (approximately 10% of the population) have been very visible on the public scene, mainly because they are publiclyg regarded as creators of conflicts. Since 1997 the Mapuche movement's central demand - its desire to be acknowledged as a people - has emerged more clearly. They have achieved this by pressing home their demands to the 'ancestral right' to 200,000 hectares of land in the South of Chile, which today is in the hands of private farmers and private compa-

nies. As a consequence acts of vandalism and violence, between on the one hand the Mapuche and on the other farmers and employees in privately owned timber companies, were reported almost daily by the Chilean press. This has caused great concern to the Chilean government, which has demanded that respect be shown towards Chilean law.

The Mapuche consider the application of the Indigenous Law of 1993, which guarantees that "land defined as indigenous will enjoy protection from this act and cannot be disposed, confiscated, encumbered nor acquired through prescription, except between communities or indigenous individuals of the same ethnic group" (Article 13) as a major source of the conflict with the Chilean government and private companies. According to the Article indigenous people who can prove their direct kinship with persons who were granted the right to a territory (called a *'titulo* of Merced') between 1884 and 1927 can rightfully claim to be owners of the said land. A supposed aim of this article was to prevent the exploitation of indigenous land by private landowners and companies. To the Mapuche land stands as the symbol of preserving their identity, and consequently it is of fundamental importance that there is respect for the land rights of the Mapuche peoples.

The policy of past Chilean governments, however, has turned this matter into a complicated one. Under Allende's government, law 17.729 provided the Mapuche with land and credits in order to increase production. This process was completely overturned under Pinochet's dictatorship, when Mapuche communities were divided up and ascribed individual allotments. In addition, according to law 2568 of 1979 rural property "will stop being considered indigenous land with indigenous people the owners". As a consequence, private companies were given the possibility to buy and exploit what formerly had been defined as indigenous land. During the last decades thousands of hectares of indigenous land have been planted with non-native pine forest with subsidies from the Chilean government.

Today many Mapuche are alarmed by the effects of private timber companies' expansion into indigenous communities' lands. On average a Mapuche family has three hectares of land at its disposal. In addition, in many areas this land is extremely eroded, and water resources are very scarce. This is thought to be a consequence of the many pinewood plantations on indigenous territory, as pines absorb huge amounts of water which leads to an impoverishment of an area's biodiversity. The extreme poverty and the poor harvests of the rural Mapuche are therefore often ascribed to the presence of timber companies. As a result of these circumstances the majority of young Mapuche

140

migrate to the big cities, where they work in low paid jobs as domestic employees and employees in bakers' shops in order to support their families.

The government of Eduardo Frei (1993 to1999) sought to solve these problems by implementing Indigenous Law 19.253 of 1993 and by having the governmental institution for indigenous people CONADI (la Corporacíon Nacional de Desarollo Indígena)[1] buy 150,000 hectares of land. This land was subsequently transferred to Mapuche Indians under the rubric '*titulo* de Merced'. The efforts of the Frei government, however, could not keep up with the Mapuche's demands, since they continued to claim their 'ancestral right' to land. In addition, under Frei's government the green light was given to further pine plantations as well as to the energy company ENDESA's plan to construct six hydroelectric dams on indigenous land. The first dam, Pangue, was completed in 1996. The construction of the second dam, Ralco, continues to be a matter of dispute, due to both the negative impact it will have on the environment and to the fact that it will necessitate the relocation of 700 indigenous people.

In the autumn 1997, with the above facts as the background, various Mapuche organisations initiated the present process, which has become known as the 'territorial recuperation' whose goal it is to recover 400,000 hectares of land. From this date onwards the terms 'conflict' and 'violence' have come to colour the relationship between the Chilean government, the private companies and the Mapuche Indians.

The Violence and the Territorial Recuperation

In 1999 the Mapuche's conflict with timber companies took precedence over those disputes in which they are involved, that have been caused by the construction of highroads and hydroelectric dams. The Mapuche, motivated by the right to land granted them by the '*titulo* of Merced', occupied a large number of *fundos* or haciendas owned by timber companies in the South of Chile. The companies Mininco and Arauco S.A. were the most severely effected (53%), while private farmers suffered 37.6% of occupations and national parks 4.3%.[2] In addition to territories being occupied, highroads have been blocked, bridges have been cut and machines have been burned. These actions have caused violent clashes between employees from the timber companies, private farmers, the police force and the Mapuche. Moreover, throughout the year there have been reports of a huge number of fires being deliberately started. In October alone more than 30 fires on pine plantations were reported. On various occasions scenes from the conflict have mirrored those of a civil war, with the Mapuche (including women and elderly people) armed

with stones and wooden clubs on one side, and on the other a heavily armed police force equipped with tanks, police dogs and tear gas sent in to protect the timber companies' property.

If we look at the events of 1999, a number of conclusions can be drawn, all of which indicate that violence is an inherent part of the acts of territorial recuperation. Even so it arises for many different reasons and depends on all of the various players, namely the timber companies, the Mapuche movement, the Chilean press and the Chilean government.

For the *timber companies* economic growth and profit margins are the prime considerations. By exporting millions of dollars worth of timber they contribute to Chile's general economy to the benefit, supposedly, of Chilean citizens as a whole. As far as the Mapuche go, the timber companies provide their communities with jobs. According to a statistic referred to by the Chilean Wood association (Corporación Chilena de madera), about 12% of the timber companies' employees are Mapuche.[3] The activities of the timber companies, however, are seriously effected by the 'Mapuche conflict'. While figures from 1994 to 1996 show that 100,000 hectares of exotic forest were planted, in the following three years this figure dropped to 30,000 hectares, with a figure of only 20,000 hectares expected for the year 2000.[4] This drop is mainly ascribed to the systematic activities of terrorism and vandalism against employees and private property of the timber companies, carried out by activists in the Mapuche movement. On these grounds the forestry companies supported by right-wing politicians have urged the Chilean government to take action in the fight against the 'Mapuche terrorists' in order to secure the economy and avoid an abyss of horror like the Mexican Chiapas or the guerrilla war in Colombia.

To a large degree the *Chilean press* has supported the timber companies' version of events by stressing the violent character of the activities of the so-called Mapuche 'terrorists'. Phrases such as 'spiral of violence', 'rural terrorism', 'brutal assault', 'racial conflict' have been an almost daily part of the newspapers' language, turning the 'conflict' into a scene of total chaos.[5] In addition, various newspapers have propagated an idea of a guerrilla war organised by radical Marxists with foreign support and funding.[6] Moreover, they depict a possible future, where the country is divided into two nations. In order to prevent a total disaster, many news reporters have called for the Chilean government to take measures against 'the terrorists' by, for example, applying the anti-terrorism law and convicting the guilty party. According to an

opinion poll published in La Tercera, however, this viewpoint has not gained much support in the Chilean capital Santiago. More than 80% of the respondents agreed that the territories legitimately belong to the Mapuche, and 68% considered the means used by the Mapuche movement to obtain their goal to be legitimate.[7]

During the last three years the arguments put forward by *Mapuche organisations*, primarily La Coordinadora de Communidades en Conflicto Arauko-Malleko, La Asociacion Comunal Nankucheu de Lumaco, El Consejo de Todos las Tierras and Identidad Mapuche Lafkenches de la Provencia de Arauco, have been gaining strength. On the 12th of October for the first time, more than 5000 Mapuche from various organisations (except la Coordinadora Arauko-Malleko) participated in a joint march in Concepcion as a way of memorialising Columbus's 'discovery' of America.

The organisations saw the Chilean government's approval of the six power plants along the River Bio Bio, as an indication that it first and foremost serves the interests of strong economic groups. The victims of this policy have been the Mapuche who today, according to statistics, are the most marginalised group in Chile, with low levels of income and high levels of infant mortality, malnutrition, unemployment, alcoholism and illiteracy. The Mapuche organisations therefore claim that the Chilean government is tacitly participating in an ethnocide. In order to comply with its democratic obligations, the Chilean government ought instead to recognise the land rights of the Mapuche as well as their collective rights as a people. This would entail the creation of an independent political representative body for the Mapuche, as well having the Chilean state ratify those international conventions that deal with indigenous peoples.

However the violence appears from the outside, from within the Mapuche movement the situation looks quite different. Their spokespersons do not deny that some acts of violence have been committed, however, they justify them as a means of defending both their rights and the last remains of the Mapuche culture. The first act of violence was committed by the Chilean state, when it ceased to respect the rights of the Mapuche peoples. The violent acts committed by the Mapuche, are only a logical and just reply. Yet, the Mapuche movement has only admitted responsibility for some of the reported cases, indicating that other more severe crimes were presumably committed by provocateurs in order to show the movement in an unfavourable light. This suspicion has been supported by the confession of several timber company security guards who, in an interview with Radio Bio Bio in February 2000, said that

143

they had carried out acts of assault and vandalism with the intention of blaming the Mapuche movement for them. In addition, voices from within the Mapuche movement tell of the arrest of minors, the sexual harassment of women in detention, and other irregularities including torture suffered by those detained by the Chilean police force. These claims were published in a report on Human Rights by the State Department of the United States.[8] This news, however, soon disappeared under the welter of reports describing new occupations of haciendas, acts of violence and the arrest of suspected parties, all of them identified as Mapuche.

The *Chilean government's* response has fluctuated between two poles, with it on the one hand wanting to secure economic interests and stability, and on the other seeking to comply with democratic principles and human rights. Repressive responses by the police force and the application of the antiterrorism law, as well as investigations aimed at revealing the degree to which the Mapuche movement is organised by foreign 'terrorists' can be said to represent the first pole.[9] (Such claims were being made while government representatives, in the same breath, were guaranteeing that the situation was under control and that the 'violent' group was small and isolated).

The opposite pole is represented by the government having entered into various forms of dialogue with the movement, always with the proviso, however of playing down the demands for an independent Mapuche nation. By maintaining a politics of dialogue, CONADI has tried to act as a safeguard against calls for a more repressive policy. These talks, however, were staggered as a result of the Mapuche movement's declaration of mistrust of CONADI, primarily because its Chilean director, Rodrigo Gonzáles, was seen to represent the interests of the government, particularly in the case of the construction of the Ralco dam.

The Role of CONADI

Autumn 1999 was marked by two elections, firstly the presidential election, secondly the election of indigenous advisors to CONADI. In the presidential election, the socialist Ricardo Lagos won by a narrow majority. In March, Lagos invited the newly elected advisors to start afresh in discussions on the 'Mapuche problem'. The advisors tried to solve the problem of the lack of confidence in CONADI, by calling for 10 demands to be fulfilled. Among these demands were the dismissal of Gonzáles and the reconsideration of the construction of the Ralco dam. The first demand was fulfilled immediately with Rodrigo Gonzáles being replaced by the Mapuche Edgardo Lienlaf. The

144

case of the Ralco dam seems more complicated due to the fact that the new government has appointed several persons who participated in the original approval of the construction of the Ralco dam, to important posts.[10] By April 2000, no agreements had yet been reached.

The lack of confidence in CONADI was also expressed by groups of Aymara Indians and indigenous people from Easter Island. The Aymara criticised the fact that while the Mapuche have eight representatives apart from the urban representative around the 'table of dialogue', the Aymara have only one representative. Likewise, a group of 'Rapanui' from Easter Island criticised the system by which advisors are elected to CONADI, and they expressed their discontent by occupying the local government office.

Notes

1 El Mercurio 24-03-1999.
2 Forster 1999: 4.
3 La Tercera 21-02- 2000.
4 Diario del Sur 14-03-2000.
5 Diario del Sur 14-03- 2000.
6 El Sur 20-04- 2000.
7 La Tercera 18-04 -99.
8 La Tercera 28-02- 2000.
9 El Mercurio, 16-5-1999.
10 El Metropolitano 06-04-2000.

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145

ARGENTINA

Regrettably, 1999 has been a year of backsliding. The task of creating legislation that will guarantee the effective enjoyment of the indigenous rights established in the revised 1994 National Constitution has yet be to be dealt with in Argentina. However, signs of social and legal change beneficial to indigenous peoples have recently begun to appear. This is no mean feat for a country that has systematically denied their existence. The media, both oral and written and above all regional, is opening its doors to indigenous demands and to issues in which they are involved in one way or another. State employees can no longer avoid taking indigenous people into account when discussing social policies. The Secretary for Social and Environmental Development, a department that houses all national level plans devoted to social welfare, has a number of programmes in which indigenous people are the beneficiaries. In all cases they are seeking to be "politically correct", recognising that indigenous participation in the design and implementation of programmes and plans is indispensable. Unfortunately, in practice, of course, such good intentions are not always achieved. In the legal sphere, reforms and criteria are also being discussed in order to adapt to the new reality of indigenous rights. There now exists virtually no judge or legal technician who can avoid these rights by arguing lack of jurisprudence.

In spite of the above, the situation of indigenous communities continues to be serious. The protests and demands at the lack of recognition of their territorial rights continued throughout the period in question. The National Institute for Indigenous Affairs, the State agency that applies policy regarding indigenous peoples, suffered two severe cuts in budget, leaving several programmes paralysed, including that of territorial regularisation. The Advisory Council of Indigenous Peoples, established a few months earlier, was also affected, as it was no longer possible to continue paying for indigenous representatives' trips to the capital to attend meetings in which the Institute's policy and priorities are discussed.

To these imbalances must be added the fact that general elections for the governors and the president were held in the country during 1999, which meant that a good part of the year was marred by political campaigns and clientilist relationships.

And so ongoing land claims continued in an ambiguous state of lack of definition and irresolution.

v. 146

The Lhaka Honhat Association of Indigenous Communities.
In January, the Inter-American Commission on Human Rights gave notification to the Argentinian State of the complaint submitted. In July, in its response to the Commission, the Argentinian government recognised that *"the construction of the International Bridge over the river Pilcomayo between Misión La Paz (Argentina) – Pozo Hondo (Paraguay), along with other different roads and buildings, significantly changes the way of life of the indigenous communities and that it would have been appropriate to hold consultations as well as to undertake a Report on the environmental impact of these works. For this reason, the National Institute for Indigenous Affairs has offered its willingness to use the available mechanisms with which to fulfil the constitutional requirement of recognising the community possession and ownership of the lands occupied by indigenous peoples (Art. 75, Para.17 NC) and to develop processes of mediation between the parties".*

This response was received with satisfaction on the part of the Association. However, this was not in line with the plans of local government, plans which it continued to implement, namely the provision of land titles to Creole settlers and individual indigenous families. For this purpose, it invents communities and fabricates agreements of doubtful legitimacy in order to justify the biased titling. On the other hand, and in complete disregard of the case before the Inter-American Commission on Human Rights and the national government's response, the regional authorities are continuing to make progress with the construction of the border post in Misión La Paz, where a few years ago the work of building the international bridge was concluded. Consequently, the surrounding woodland has been felled for the purpose of providing firewood for the manufacture of bricks for the construction work, and no consideration has been given to the environmental consequences of this action. In October, the first audience was held in Washington between the Inter-American Commission on Human Rights, the Lhaka Honhat coordinator and the Argentinian government. The offer of mediation was accepted on condition of the immediate suspension of the works in Misión La Paz. The Argentinian State requested 15 days in which to issue its response. Once this time had lapsed, it responded that it was unable to reach any conclusions, being a transitional government.

Whilst these negotiations were taking place, the regional government was resolving the award of ownership of 9 areas of land in State Plot 55, 5 of which were for supposed indigenous communities and 4 for Creole farmers. The Association could keep quiet about this no longer, and has submitted a legal appeal, protesting that they were not duly notified of these plans. In this

147

context, the future of Lhaka Honhat is still uncertain. It has put its hopes in the international arena and in the pressure the Inter-American Commission can exercise over the national government. But while the appropriate steps are being taken, the social conflict within the communities and the destruction of the environment of the Chaco is continues to increase unabated.

The ongoing demand of the *Asociación Meguesoxochí* for 150,000 hectares in Chaco province reserved for the "Toba of the North" by means of a 1924 presidential decree seems to have come to a conclusion, for at the end of last year the organisation was awarded the land title. However, this title is only a photocopy of the real title and the lands can be sold after a period of 20 years. Throughout the country, indigenous peoples are under threat from the progression of farming, forestry and mining interests.

The Mapuche community of *Futa Huau,* in the province of Chubut, had to occupy a State school that had been seized by a non-indigenous individual from the area in order to make known their claims to it and to denounce the theft of 1,000 hectares of land appropriated by the same person. Several members of this community are now facing trial for misappropriation, damage to property and banditry.

In the same province, the Mapuche community of *Vuelta del Río* is facing similar problems. This community is settled on lands reserved by presidential decree of 1899, following laborious demands made at the time by the then *cacique* or chief of the community. Twenty five families currently live there on 15 plots of 625 hectares each, which means that they do not have one plot per family. The families continually find themselves harassed by individual title holders who try to take possession of their lands. Towards the end of the year, one individual tried to bring a trial against the community, although there were already members of this community on trial for misappropriation. Given the extent of this pressure, which the community's lawyer has termed "judicial harassment", the community has requested that a community title to the lands traditionally occupied be granted which ensures they have one plot per family, along with the cancelling of all land titles granted to non-indigenous individuals on the reserved lands.

To the north of the country, in the Misiones forests, is the *Mbyá Guaraní community of Tekoá Yma in Pepirí Guazú*, considered a sacred place by the Mbyá, a sanctuary to which people make pilgrimage in an attempt to recover the spiritual balance destroyed by contact with non-indigenous society. It is a

148

place where the Mbyá feel they can be fully Mbyá. Tekoá is inhabited by more than thirty families over a territory of 3,964 hectares which, according to the land registry information of the Misiones Province, belongs to a non-indigenous individual who purchased the land in 1986. In mid-1999, a forestry company called "El Moconá S.A." began large-scale exploitation of the forest in the area, destroying precious species of wood and affecting the whole environment of Tekoá Yma. The serious situation determined the head of the village to submit a resolution, calling upon the constitutional right of the communities to participate in the management of natural resources. The judge of the Court of the First Instance was open to the request of the indigenous community but, faced with a presentation by the company in which it noted its ownership of the lands, the same judge rejected the measure. An appeal is currently being lodged and a decision is awaited from the judges of Cámara. In revenge, the forestry company has closed the access road to the community, prohibiting the entry of any person, and preventing the community's access to medical attention and legal assistance. The only means of entering is by express authorisation of the company's representatives, more than 100 kms away.

The *India Quilmes Community,* made up of fourteen communities of the Diaguita Calchaquí people, has denounced the outrages and violations of their territorial rights on the part of mining companies and tourist undertakings, which ride roughshod over their sacred places and assault and send death threats to community members who dare to denounce these events.

Abuse on the part of non-indigenous people who claim to be the owners of the land has reached the point of demanding the handing over of two thirds of their crops from 20 families of the Anchillos community, along with payment per head for pasturing of their animals. To this must be added payment demands for use of water, the environmental contamination that is occurring due to the location of rubbish dumps, and the explosions being carried out by the mining companies. This is occurring without any respect whatsoever for the royal warranty of 1716, which recognises the Quilmes Indians as the natural and age-old owners and possessors of these lands.

The *Wichí Hoktek T'oi* community in the province of Salta is virtually surrounded by the senseless devastation of the woodland being undertaken by one individual who bought the lands with the community within them. The community is committed to defending a strip of forest of approximately eight hectares located on a neighbouring plot. In November, the company tried to

149

enter this strip to clear it and put up a fence that would prevent access to a well used by the community. The community members decisively confronted the bulldozers, which had to retreat, not without threatening the participants in this act of resistance with death. Faced with these events, the community submitted a complaint to the Ombudsman, whilst a draft law is being processed in the Congress of the Nation that will expropriate 3,000 hectares (only 4% of the ancestral territory).

The *Leufuché* Mapuche community in the Province of Río Negro is settled on lands declared a protected area in 1997. In spite of this, in 1999 a municipal resolution was pronounced granting lands to an individual in order to commence an economic undertaking which, undoubtedly, will result in environmental damage and the consequent forced displacement of the community. This conflict is currently going through the courts.

Conflict is also still occurring with the army in *Boquete de Nahuelpán,* in the province of Chubut, where a Mapuche community lives. Here, military manoeuvres are regularly carried out, putting the lives of people and areas of pasture at risk. These lands have been claimed by the community since 1937 and their ownership has still not been recognised by the Argentinian State. The army exploits this irregular legal situation by bring the claimant families into conflict, creating internal confrontation with which to discredit the claim.

Other Reforms and Adaptations to Regulations Planned or in Progress during the Year

General Census of People and Housing for the Year 2001. National Law 24956 provides for the fact that a future census will include the 'indigenous variable' as a special theme. This means that, on the basis of self-recognition, indigenous peoples may state their identity as members of one of the 18 indigenous peoples currently living in Argentina. In November, in the town of Clorinda (Formosa) an experimental census was carried out to test the waters for a question aimed at detecting households with at least an indigenous component. The authorities of the National Institute of Statistics and Censuses hopes to obtain meaningful data in the 2001 Census on which to base the design for a General Indigenous Census in 2002.

Reform of the Criminal Procedural Code in the Province of Neuquén. The judicial authorities in the province of Neuquén are considering reforming the procedural code. This includes article 40, which states, "Indigenous commu-

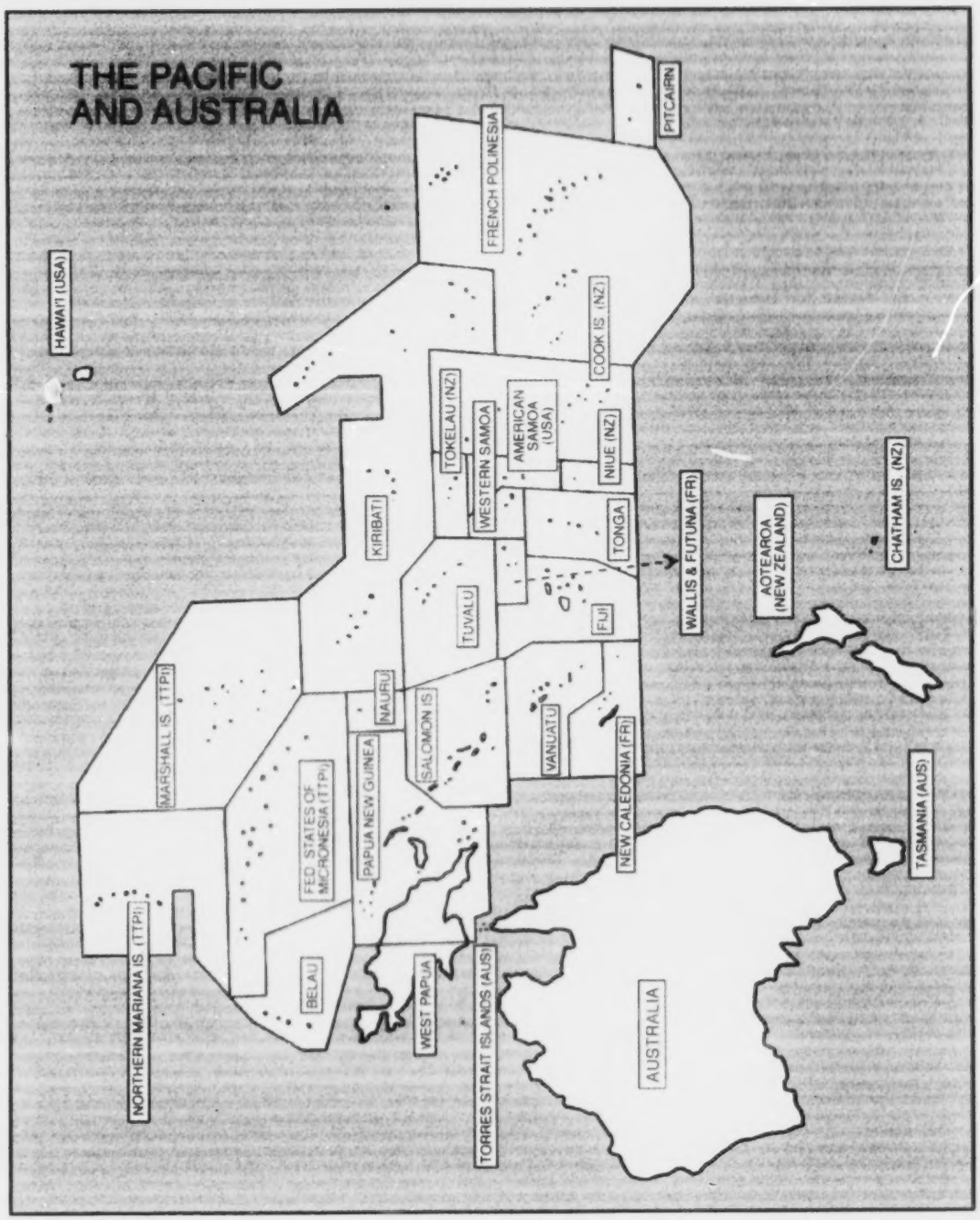
150

nities: when dealing with crimes that affect the legal property of an indigenous community or personal belongings of one of its members, and when both the accused and the victim or, where relevant, their relatives, accept the method by which the community has resolved the conflict in accordance with their own customary law, the extinction of the criminal action will be declared. In such cases, any member of the indigenous community may request that this be testified before a criminal Judge or Justice of the Peace, in those cases in which these latter may intervene. Cases of criminal murder and crimes aggravated by death are excluded". Indigenous organisations from the province have initially agreed to these proposals.

Project for the Creation of a New Category in the Area of Natural Resource Management: Indigenous Protected Territory. With the involvement of the National Institute for Indigenous Affairs, some indigenous organisations from the provinces of Neuquén, Salta and Tucumán are formulating a new category for the use of natural resources in areas where it is necessary to maintain clear directives with regard to the conservation and management of the biodiversity. The project, which has the financial backing of the World Bank, seems to be an innovative alternative for communities settled on protected areas and in this respect a workshop has already been planned for 2000 in the town of San Martín de los Andes, with the participation of the National Parks Administration, the Neuquina Mapuche Confederation and the National Institute for Indigenous Affairs.

ILO Convention No. 169. A number of different indigenous organisations and NGOs are demanding that the Argentinian State urgently deposit ratification of the Convention at the ILO head offices in Geneva. The new government that took office on 10th December has promised that this will be done during the coming year (2000).

151



Countries/regions covered in this issue: Australia, Kanaky (New Caledonia), Te Ao Maohi (French Polynesia), Bougainville, West Papua, Guam, Ka Pae'aina (Hawai'i)

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THE PACIFIC & AUSTRALIA

AUSTRALIA

Unfinished Nationhood

When in February 2000 an unhappy Aboriginal teenager hanged himself in jail in Darwin, the Northern Territory (NT) capital, it focused the attention of a continent and its peoples on issues of constitutional legitimacy, disputed history, incomplete nationhood, contested identity, and social and racial injustice. Why were children being jailed for trivial offences, in this case stealing cheap Texta pens? Why were NT laws locking up so many Aborigines whose real crime was being poor and dispossessed? Why were governments, federal and NT, so casual about the plight of peoples who had established the oldest continuing cultures on earth? Why were a few white enclaves made up largely of short-term workers or curiosity seekers, dictating archaic notions of the White Man's justice and culture and reminding Australians of past official racism? It seemed that Britain's brutal 18th and early 19th century policy of jailing and mistreating the English and Irish poor - hardships and injustice which are the creation story of white Australia - was being re-enacted by those white survivors against new victims.

A furious debate erupted across the country between two sharply contrasting and conflicting countries. One is a modern, open, inclusive society which wants to heal its history and the wounds of indigenous peoples through genuine reconciliation as a precondition for life as a unified nation in a busy, multi-racial world. The other associates its own comfort with a hazy past in which 'blacks knew their place' and women, intellectuals, people with foreign accents, and new-fangled technology were not forever challenging the adequacy of old prejudices and limited education. This latter Australia has no future but feeds fringe groups and eccentric little political parties that lash out at foreigners, minorities, and worldliness in general, while major parties mute their ideals in the hope that they will harvest or hold onto such voters.

Australia has been arguing about its identity and symbols for years. Until recently Australia was ahead of most European peopled countries in having positive permanent relations with Asian countries and it had largely succeeded in overcoming memories of the White Australia policy. But Howard has been accused of encouraging populist suspicion of such foreigners, putting Australia's long-term interests at risk. Even the admirable aid of Australia and its

armed forces in East Timor during the massacres and terror that were perpetrated by Indonesia, followed much Howard government dithering and obfuscation.

Surveys show clear public support for having an Australian head of state replace the British Queen or future monarchs. The latter are unelected members of a Protestant family on the other side of the world. In a November 1999 referendum Prime Minister John Howard and other monarchists defeated the movement for change by splitting the republican vote between those favouring a head of state chosen by Parliament and those favouring a head of state elected directly by the public. On the same day the Prime Minister's personally drafted statement of Australian values that was to be placed at the beginning of the Constitution was defeated. (See *The Indigenous World, 1998-99*). Despite his public gesture of negotiating the final version with one sole Aborigine who had been newly elected to the Senate, Howard did little to support the final version and it was rejected by voters.[1]

The Australian, March 2, 2000

154

And so, while on January the 1st 2001 Australia will celebrate its centenary as a prosperous and egalitarian country under a federal Constitution - with the 2000 Olympics acting as a housewarming party - there is deep division, confusion, anger, and remorse. The press and community leaders are politely but insistently calling for moral and political leadership on national issues, usually concluding such commentaries by saying such leadership cannot come from Howard. One of the Prime Minister's favoured projects for national celebration is itself a focus and cause of division - statehood for the Northern Territory (NT).[2]

The Northern Territory

The Northern Territory is the heart of the continent, one large slice of a huge region where Aboriginal and Torres Strait Islander peoples still live in or near their traditional territories of sparsely settled desert and semi-desert land with a green coastal fringe sustained by seasonal monsoon rains. Even when the frontier of brutal grazing moved across their lands, many indigenous people succeeded in finding a *modus vivendi* that allowed them to maintain much of their culture.[3] The map shows entirely arbitrary boundaries carving up the heart of Australia with no regard to ecological, topographical, or indigenous social and cultural boundaries. 'The White Man' ran a telegraph line up the middle to connect the continent with the world, i.e., London, and a road came later. On many maps this thin red line is the Stuart Highway. For decades the NT government has wanted a railway built from Alice Springs to Darwin in the belief that this will make the region, or at least its non-Aboriginal inhabitants, wealthy.

The conventional history of the Northern Territory is already written.[4] As in many shallow-rooted colonies there are some who make a fetish of local antiquities, as if the veranda of a hundred year old home somehow fills the space we must not see - the enormous landscapes and countless rock art galleries measuring time and managed with seasonal burning, story, and clear law 'since time immemorial'. Such *un*conventional history is more interesting and useful. The facts are that most non-Aboriginal people working in the White Man's north do so only discontinuously, and that the few white population centres have little contact with Aboriginal realities. Aborigines use land extensively and a true picture of the region's history emerges from Aboriginal cultures and patterns of social and political relations with scattered white settlements, not to mention the story and imperatives of the lands and seas themselves. The classic novel *Capricornia* by Xavier Herbert (1938) provides a semi-documentary of tragic 20th century collisions of indigenous

155

and non-indigenous histories in the Darwin area. A new book by anthropologist David Lawrence brilliantly documents and unravels the great issue of recent decades, the Kakadu national park and its uranium mines east of Darwin. It is a battle that still rages, even though in its earlier stages it shaped Australia's national indigenous policy, in the same way that the Alta case has done in Scandinavia.[5]

The Aboriginal occupation of Northern Australia is proven to date back 50,000 years. On New Year's Eve as the year 2000 dawned, we saw Inuit celebrating in the snow and ice of Iqaluit, the new capital of the new Nunavut, on TV. The Inuit gracefully handed the show over to NT Aborigines who had prepared a ceremony at Uluru, the huge monolithic red rock in the heart of Australia known to generations of Australians as Ayer's Rock - the newest and oldest cultures on earth, said the TV presenter. But while the Inuit of Northern Canada, Greenland, and Alaska have fought with considerable success to establish political structures and control of their lands and seas, in Australia the NT government and its friends have prevented indigenous reforms and many urgent indigenous initiatives on the grounds that such moves would constitute separatism, *apartheid*, or reverse racism. While the large cities of southeast Australia celebrate their cosmopolitan character, a sharp distinction is made towards Aborigines and Torres Strait Islanders on a national level. Political leaders from national and state capitals have too often deferred to NT 'experience' in handling indigenous matters. That experience is more appropriate to General Stroessner's old Paraguay than to a 'first world' country.

'Talking English'

Three 'hot' NT issues illustrate the problems at hand. One is the abandoning of indigenous language teaching in schools. The NT government believes that if children are taught only English, they will be assimilated into the economy and the White Man's world more effectively. Other 'first world' countries learned several decades ago that such indigenous education policies are disastrous, but NT ministers apparently care little.

'Mandatory sentencing' has been the big recent controversy. This involves locking up anyone who is convicted of even very minor offences, such as the boy who hanged himself. Non-Aborigines who go to the NT do so as tourists or for work, and return south or go on travelling in Asia or Europe when their wallets or snapshot albums are full. The NT laws are aimed at locking up blacks, in effect. There is strong support for such 'law and order' policies across the north, west, and centre of Australia among non-indigenous people.

156

In the 19th and early part of the 20th centuries, Aborigines were enslaved and abused, or simply shot - men, women, and children included. A man who gave his name to one of the central streets of Alice Springs, NT, Constable Willshire, wrote lyrically of one such massacre at dawn:

> *"They scattered in all directions... It's no use mincing matters - the Martini-Henry carbines at this critical moment were talking English in the silent majesty of those great eternal rocks. The mountain was swathed in a regal robe of fiery grandeur, and its ominous roar was close upon us. The weird, awful beauty of the scene held us spellbound for a few seconds."*[6]

"*Talking English*", indeed! Genocide, ethnocide, old language abolition, new language learning, or locking up the local inhabitants - there is a certain continuity and consistency to Australia's northern policies. The new premier says:

> *"I think Australians should stand proud on their human rights record and I think Australians should stand proud on the way we deal with indigenous issues and their complexity...I don't believe we should have our head bowed to anyone whether it's the UN or anyone just because someone writes a report and decides to criticise us."*[7]

The third issue is the NT government's demand for constitutional 'equality' with the six states which formed Australia in 1901. In August 1998 the Prime Minister promised the NT that it would be granted statehood status by January the 1st 2001, but the proposed model was rejected by NT voters in a referendum soon afterwards. The premier who had proposed the failed plan was dumped by his party caucus, but the Prime Minister welcomed him as a Liberal and he became the new party President! This set alarm bells ringing in the minds of many Liberals who deplored the image that their party was projecting, which seemed to tolerate or encourage anti-Aboriginal policies. Earlier reports had claimed NT help was important in Howard's 1996 election victory and this move seemed to confirm it. Presumably the Prime Minister wishes NT statehood to be his gift to Australia for the constitutional centenary year 2001. Recent comments hint as much. "I don't think they are necessarily a long way [from statehood]" was his response to one interviewer's scepticism.[8]

The proposed NT statehood models have no indigenous component or input. At the beginning of March 2000 the Prime Minister explicitly rejected

indigenous autonomy, what he called 'separate development', legislated or negotiated reconciliation, and the accommodation of indigenous customary law in Australia as a whole. He noted recent opinion polls, saying the 'average Australian' (whoever that may be!) supported his views. The media responded with a chorus of editorials and commentaries demanding moral and intellectual leadership on reconciliation. However, Howard has given himself further opportunities to avoid progress by dismissing both the much anticipated May the 27th 2000 deadline for a Reconciliation document[9] and the January the 1st 2001 deadline for a successful conclusion to the Reconciliation process.

Unresolved constitutional issues are not confined to the NT. A landmark 1999 court case like those which launched Canada's modern indigenous policy reforms saw northwest Queensland Aboriginal leader Murrandoo Yanner supported by the High Court by a majority of five to two in his battle to be allowed his traditional rights to hunt crocodiles in spite of Queensland law.[10] Many whites claimed to be outraged and see this as a threat to national unity.

International Echoes

Before United Nations' Secretary-General Kofi Annan visited Darwin and other cities to thank Australia for help in East Timor in February 2000, Howard used the media to warn him not to comment on mandatory sentencing, the NT's treatment of Aborigines, or Australia's indigenous polices in general. Howard explicitly and publicly denied, with some annoyance, that UN or other international agreements signed by Australia had to be respected, or that outsiders like UN human rights head Mary Robinson had a right to comment on Australia. Australia was already being censured by the UN on indigenous rights grounds in several different areas including diminishing native title and environmental protection.[11] The mandatory sentencing issue, for instance, has attracted wide criticism within Australia from lawyers, judges, and human rights groups for breaching UN standards. One example of Howard's 'argument', taken from the national radio show which starts the day along with morning coffee for informed Australians, gives the flavour of his views:

> *"And the suggestion that in some way we are accountable to the rest of the world for something like this given the human rights record of this country. I mean I'm not going to have a situation where people are denigrating the human rights reputation of Australia. Australia's human rights reputation compared with the rest of the world is quite*

158

> *magnificent. We've had our blemishes and we've made our errors and I'm not saying we're perfect. But I'm not going to cop ['accept'] this country's human rights name being tarnished in the context of a domestic political argument."*[12]

With the Prime Minister so determined not to acknowledge, respect, accommodate, or be 'reconciled' with indigenous society, culture, or political aspirations in their surviving heartland, i.e., the traditional lands comprising the NT, there seems no hope of progress for Australia's Aborigines or Torres Strait Islanders under his leadership.

Constituting and Re-Constituting Australia

In a stunning new book of her work in film and still photo images, Tracey Moffatt, the Brisbane born Aboriginal artist who lives and works in New York, says matter of factly, "Australia is a very multi-cultural nation and this has certainly influenced my work."[13] To her as she looks out of the window at Brisbane, a provincial city which is now becoming something more, this is obvious. To John Howard who has spent his life in Australia's most dazzling cosmopolitan city, Sydney, none of this is apparent. When invited to join an all-party code of ethics or standards on racial issues in late 1996, a positive step after some of the remarkable Senate speeches in previous years on Aboriginal issues, Prime Minister Howard's office issued a statement dismissing the project, saying 'He [Howard] learnt all he needed to know about ethics from his deceased parents' (*Courier-Mail,* Brisbane, 10-12-96). Despite the undoubted worthiness of Howard's parents, they grew up and lived under the White Australia Policy, a time where dark skins at home or from abroad were deemed deplorable and avoidable. Ms Moffatt's work is now showing with other Aboriginal masterworks old and new in the Great Hall of the Hermitage in St. Petersburg. And when the US President toured Australia in 1996, the Clintons' interest in and awareness of Aboriginal art surprised Howard on his home ground in Sydney.

Tracey Moffatt and many other Aboriginal and Islander graphic, performing, and literary artists are contributing extensively to the world at large. (Within Australia a fine large travelling exhibition of Torres Strait art is giving Islander people their highest visibility ever).[14] Powerful and disturbing images of real life, 'Oz-style', depicted in work like Moffatt's or the documentary fact and fiction of an Alexis Wright are far removed from the safe kangaroo motifs or hearty white 'mateship' images comfortably enjoyed by Australia's conservative business, sporting, and political élites.[15]

159

Aboriginal runner Cathy Freeman has stirred up controversy amongst die-hards who resent her wrapping herself spontaneously and rapturously in both the Aboriginal and Australian flags after winning races abroad in years past. Yet she is far more popular nationally than, say, John Howard and as, along with other indigenous athletes, she prepares for the Olympic Games in Sydney later in 2000, she does so with much national goodwill. Of course, major league sports were racially integrated in America long before the hard issues of civil rights were faced.

The Aboriginal intellectual, Larissa Behrendt, of the Australian National University, who has just returned with her doctorate from Harvard Law School after a detour through the Cree hinterlands of Western Canada, writes with clarity, fluency, and accessibility in a range of formats and with a breadth of view that promise a significant 'next generation' of Aboriginal political and civic presence. She also writes movingly about the small mundane complexities and bruises of being Aboriginal in a largely white world, from the point of view of indigenous life in the margins.[16] In a short piece on Australia and North America, Behrendt finds 'Australia a human-rights wasteland'.[17] Few knowledgeable Australians would disagree. Meanwhile the Howard policy of wishing away indigenous issues, only serves to prepare a new abler and stronger indigenous generation who will tear assimilationist illusions to tatters, leaving everything to be negotiated once more. Howard has even begun to denounce political 'negotiation' when it comes to indigenous affairs. This is either a case of wishful thinking or else he is unaware that the word is a metaphor for social processes already long begun, and not simply a description of sitting across the table from an Aboriginal grand chief.

Distinguished Aboriginal and Islander leaders are readily available to take part in negotiations. When the Howard government appointed Gatjil Djerrkura to succeed Lowitja O'Donoghue as chairperson of ATSIC (Aboriginal and Torres Strait Islander Commission), the federal indigenous administration leavened by elected regional councils and by a national Commission of members elected by the regional councils, he was thought to be a politically 'safe' choice. Soon he was taking firm positions on rights issues alongside other indigenous leaders against the Howard government. Even this failed to show the government that indigenous ethno-politics was a field requiring more understanding than mere populist one-liners. In late 1999 Geoff Clark became the first elected chairperson of ATSIC, beating Gatjil Djerkkura whom many had expected to win. Clark, a former boxer, comes from the settled heartland of Australia, the state of Victoria. He challenges facile assumptions about aboriginality because he is fair-skinned. He has 'come up the hard way',

160

and may be an ideal leader. Not only that, he is as quick of wit and tongue as ever he was in the boxing ring. No indigenous leader is better versed in rights politics and the international indigenous rights scene, and none has a better grasp of constitutional politics. In his early months in office he has shown flair and ease in bridging the great divides in Australian indigenous politics - between the southeast on the one hand and the rural and remote north, west and centre, between moderates and hardliners, between those who want a head-on sovereignty claim and those who see that 'negotiating' the indigenous agenda can take many forms and use many words without surrendering substance.

Lingiari Lecture

Perhaps the foremost figure in the Australian political landscape, and the one most trusted and respected by both the indigenous and the non-indigenous public, is Patrick Dodson. With his big presence, big voice, big beard, hat, and clear drawling ironic Australian voice, he is a striking figure who always has something to say. Pat Dodson has personally endured some of the more resounding slaps in the face that the Howard government has dealt to Aborigines, but his commitment to Reconciliation remains undimmed. In his travels and meetings around the country he finds many people moving in a more positive direction, as the national non-indigenous support movement for indigenous peoples, ANTaR, has also found.[18] (Dodson's younger brother Mick, hat wearing but clean-shaven, is more familiar to international audiences from his articulate presence in recent years at Geneva and elsewhere).

In late August 1999 in honour of Vincent Lingiari, a man who was an inspirational figure behind the indigenous modern rights movement, Pat Dodson summed up the current situation in a public lecture.[19] He noted that contrary to the fantasies of its opponents, the Aboriginal movement has evolved responsibly and steadily for years, with a national consensus emerging on issues that need to be resolved. He called for a process of discussion and working through to bring about the renewal of white-black relations the country is seeking. (Recent opinion polls confirm that this reflects the country's mood). He provided an agenda with a sentence or two of explanation for each item. It was a defining moment in contemporary indigenous politics. Somebody had a plan - a workable and understandable plan - which was built on what had already been achieved, whilst also making room and time for information, reassurance and acceptance which the non-indigenous community, or at least their more resistant politicians, need in order to be able to face reality. After all, the trouble with the sentimental Australia of populist politicians is that it

is unrelated to the actual world - the daily Australia of pain, difference, and recrimination.[20]

Dodson offered a package that contained substance and process, as well as direction and space for compromise. A special issue of the Melbourne based *Arena Magazine,* which included articles by people who had been briefed by Dodson before his lecture and had discussed its import with him, provides further background for non-indigenous Australians.[21] Sarah Pritchard, the Aboriginal movement's indispensable international expert, explained what was happening in the field of international rights as well as explaining Australia's recent wanderings in limbo.[22] There was an article on the power and possibility of process in healing indigenous politics,[23] one on domestic rights régimes,[24] as well as a fresh piece by the editor focusing on the big issues of the crisis in the Northern Territory and its 'talking' of English.[25]

The agenda was moderate by international standards, e.g., in New Zealand, Alaska, Northern Canada, or Greenland where stronger rhetoric has been used and where public administrations function happily today. Beginning with point 1, 'Equality', the official dogma of Australia, point 2, 'Distinct... identities', and point 3, 'Self-determination', the agenda ended with items such as point 12, 'Lands and resources', point 13, 'Self-government', point 15, 'Constitutional recognition', point 16, 'Treaties and agreements', and point 17, 'Ongoing processes'. This last point included "a discussion, research, information, and negotiation forum to promote public awareness and to draft national legislation enacting principles of recognition, guidelines for public policy, and the framework for negotiation of the agreement referred to above."[26]

Serious Problems, Un-serious Government

A low point had been reached a month earlier when Senator Herron, as minister assisting the Prime Minister with indigenous affairs, delivered a policy statement to the United Nations in Geneva.[27] This remarkable document (which is highly recommended reading if only on account of its absurdity) wallows in the degradation of Aboriginal and Islander communities - a sort of pornography of deprivation - and then pretends that the social ills of Aboriginal Australia were caused by (a) 'self-determination' and (b) the former Labor governments of Australia. Although 'self-determination' was the ideal or goal of - or even the public relations term used for - former policy, it would be wrong to imagine that in recent times it had ever happened in Australia. Yet 'self-determination', that hopeful term of yesteryear's policy, was now being used by a government that was merely trifling with indigenous affairs.

Still a very serious project concerned with the same issues was however underway. A task force of indigenous women toured Queensland in order to produce a unique report on the violence experienced by indigenous women and children.[28] As its executive summary begins:

> *"Violence at its most blatant has become a part of everyday life. Horrifying crimes are occurring regularly and have instilled in the minds of the elderly, the young and others a level of fear previously unknown to the Australian population. Murder and other violent crimes are destroying what has traditionally been the Australian way of life.*
>
> *"However, for most people, their contact with violence is second-hand, through the daily newspaper or the nightly news or a movie. In many cases, people have a choice about whether they allow themselves to become exposed to the violence or whether they avoid it. However, Aboriginal and Torres Strait Islander Communities do not have the luxury of being able to disassociate themselves from violence. The high incidence of violent crime in some Indigenous Communities, particularly in remote and rural regions, is exacerbated by factors not present in the broader Australian Community."*

The problem solving stance and commitment of Queensland and other Aboriginal women all around Australia, is the backbone of their people's survival. This has always been the case in other poor and benighted regions, whether they be the Ireland and Norway of times past or in Canada's mid-north today. Sometimes they receive recognition either as a result of the memoirs of a younger generation, or in dramatic form such as in the great plays - *No Sugar* and *Barungin* - of Jack Davis (who died in the same week that this article was written). As a new report reminds us there is a great need for more international networking of indigenous Australian women along the lines of the Circumpolar movement.[29] Meanwhile it is heartening to see one of the most articulate community spokespersons and pioneer indigenous educators, Peg Havnen, being followed by her daughter, Olga Havnen, who is one of the most able political operatives at home or abroad.

However, the serious problems of black Australia have been a political resource to an unserious national government. By pretending that talk of rights and politics and identity and culture is silly 'self-determination' that has brought about the genuinely awful social ills which ministers are eager to recite to the world, the government tries to play the two sides of indigenous

activism against each other. Undoubtedly the government considers this a very clever move. A strong statement by North Queensland Aboriginal leader Noel Pearson about the ills of welfare-dependent communities has been much used as if it were a guilty or brave admission, despite the fact that it has been well known to anyone involved in indigenous issues for years. Instead of addressing issues morally and seriously, the government's real policy has been to partake in a childish media game, which the incessant floundering of both the Prime Minister and Senator Herron has made necessary. Needless to say the government's populist stance has destroyed its credibility and moral authority with the informed public.[30] Its desperate feints and new Goods and Services Tax (GST) on most items may bring it down in the same way that the similar Mulroney government was brought down in Canada in 1993. A recent moment of light relief saw Tanya Tampon, a woman dressed as a tampon, chase the Prime Minister out of town while he was on his 'tour of the bush' to win back conservative rural voters. Her protest was against his GST tax on women's health products like tampons.

A dangerous new argument arising from well-meaning people is that Australians should not *need* to rely on overseas standards to do the right thing. Yes, 'first world' countries should normally lead and set standards by their own actions, but in the present climate that seems impossible in Australia. The Howard government may seize on this argument to justify ignoring international standards to an even greater extent! Meanwhile, it may make some symbolic gesture on mandatory sentencing in the hope of hoodwinking the public's attention while it suffers from 'compassion fatigue' and, like Molotov negotiating for Stalin of old, pretend to do a great thing at last in order to do little but confuse the other side.

Finale

The federal government is worried about protests 'marring' the Olympics while the world is watching, and many people mutter about the propriety, value, or effect of protest against Australia's national religion, sport. But for the time being it is a dead boy, jailed for stealing cheap colouring pens, that has highlighted the ugly face of the government. Howard humiliated Kofi Annan in front of a country already well informed by the media about the government's machinations. The press published as many damning and urgent editorials on indigenous affairs in February and March 2000 as it did during Howard's attack on native title in past years. Then, on March the 17th, St Patrick's Day, when Australians with the faintest trace of an Irish connec-

tion or affection for Ireland head to the pub for a Guinness, the *Sydney Morning Herald* began its big news story of the day with the following disclosure:

> *"Politically explosive findings that placed Australia in direct violation of international human rights conventions were dumped from a United Nations report on mandatory sentencing this week amid diplomatic pressure from the Howard Government.*
>
> *"The discarded conclusions said the laws breached the UN Convention on the Rights of the Child and numerous human rights instruments on racial discrimination and independence of the judiciary."*[31]

The newspaper also helpfully published the undiluted report as it was written before Australian interference. And then the next day both it and its fellow newspaper *The Age* in Melbourne, published lengthy comments and exposés on how Australian diplomats had done their dirty work. To paraphrase what the diplomats told the UN, since the country had undergone six weeks of angst and anger over the dead child, did anything more have to be said? The head of the national Human Rights Commission said that only countries like Burma engaged in abusing the UN in this sort of way, while the former Chief Justices of Australia - Stephen, Gibbs, Mason, and Brennan - who usually agree on very little, condemned the 'justice' policies of the federal, Northern Territory, and Western Australia governments.

The clearest summing up came from four revered high court judges from New South Wales. One of them, Fitzgerald, had cleaned up the political and police corruption which nearly destroyed Queensland in the late 1980s, while another, Wood, had caught the rot at an earlier stage recently in New South Wales. The four of them wrote a public letter that was published in the *Sydney Morning Herald* on March the17th and 18th:

> *"The inability of the national political process to achieve reconciliation with indigenous Australians and to terminate mandatory sentencing provides a disturbing insight into the practical operation of the simplistic notion that democracy is merely the majority will.*
>
> *"Racism and injustice are evil, particularly when they have popular support.*

165

"It is unjust to imprison offenders without regard to their personal circumstances, life experience, prospects of rehabilitation or other, more suitable, sentences.

"It is racist (and cowardly) to enact and implement laws which apply most harshly to a disempowered minority. It may be thought to be clever politics but it is not leadership to pander to ignorance and prejudice."

Judge Wood, when asked if he should criticise policy, replied that if judges did not speak out but meekly resigned, they might as well be replaced by people with no principles whatsoever. Meanwhile, Aborigines and Torres Strait Islanders and many decent non-indigenous Australians need friendship and support from friends overseas as well as from all moral resources available at home.

Notes

1 The final indigenous section said that the Australian people were "honouring Aborigines and Torres Strait Islanders, the nation's first people, for their deep kinship with their lands and for their ancient and continuing cultures which enrich the life of our country". Howard then added a clause to the proposal forbidding judges to use the words when interpreting law, thereby taking away with one hand what he had 'given' with the other in the eyes of indigenous leaders who, in any case, had wanted stronger language including the word 'custodianship'.

2 P. Jull. 'The trouble with the Northern Territories', *Arena Magazine*, April-May 2000.

3 N. Peterson. 'Capitalism, culture and land rights', *Social Analysis*, 18, December 1985, pp.85-101.

4 A. Powell. Far Country: A Short History of the Northern Territory, 3rd edition, Melbourne University Press, 1996.

5 Kakadu: The Making of a National Park, Melbourne University Press, Melbourne. For information about the Alta case in English see 'The Alta-Kautokeino Conflict: Saami Reindeer Herding and Ethnopolitics', by O.T. Brantenberg, Native Power: The Quest for Autonomy and Nationhood of Indigenous Peoples, ed. J. Brøsted et al., Universitetsforlaget, Oslo, pp.23-48.

6 J. Downing. Ngurra Walytia: Country of My Spirit, Australian National University North Australia Research Unit, Darwin, 1988 p.5.

7 'Burke says law and order...', ABC Online News, March the 14th 2000.

8 Transcript from ABC-TV's *Lateline*, Prime Minister's Media Centre, March the 6th 2000.

166

9 The controversy, of course, is between those willing to accept a meaningless statement of indigenous and non-indigenous goodwill, of which countless such already exist, and those who want something with substance that promises real change.

10 Sean Brennan. 'High Court Upholds Bush Tucker Rights', Research Note 11 1999-2000, Parliamentary Library, Canberra. Online: http://www.aph.gov.au/library/pubs/rn/1999-2000/2000rn11.htm

11 E.g., 'Howard's Wik bill is racist, United Nations group finds', by Margo Kingston, Sydney Morning Herald, main story page one, March the 20th 1999.

12 Transcript from ABC's *AM Programme*, Prime Minister's Media Centre, February the 18th 2000.

13 With G. Matt, in Tracey Moffatt, ed. M Snelling, Colour & b/w images, Institute of Modern Art, Brisbane & Asialink, Melbourne, 1999, p.67. Online: www.ima.org.au

14 The exhibition catalogue, *Ilan Pasin (this is our way): Torres Strait Art*, ed. T. Mosby & B. Robinson, Cairns Regional Gallery, Cairns, Queensland, 1998, may be seen and bought online: http://www.cairnsregionalgallery.com.au/ilanpasin/

15 E.g., Alexis Wright's account of Tennant Creek, Grog War, Magabala, Broome, WA, 1997, and the novel about northwest Queensland, Plains of Promise, University of Queensland Press, Brisbane, 1997.

16 E.g., 'At the Back of the Class. At the Front of the Class: Experiences as Aboriginal Student and Aboriginal Teacher', Feminist Review, No. 52, Spring 1996, pp.27-35.

17 'Righting Australia', *Arena Magazine*, No. 45, February-March 2000, pp.24-26.

18 Australians for Native Title and Reconciliation

19 *Until the Chains Are Broken*, 4th Annual Vincent Lingiari Memorial Lectures, Northern Territory University, Darwin, August the 27th 1999. Online: http://www.acfoa.asn.au/Indigenous/Lingiari.PDF *or* http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/car/lingiari/4dodson.html

20 While the 1940s may look good in our childhood memories, they were not much fun for our parents or grandparents in Arctic convoys, Guadalcanal, the bombed cities of Europe, enemy-occupied territory, or Auschwitz.

21 'Living Indigenous Nations', *Arena Magazine*, No 45, February-March 2000.

22 'From Welfare to Rights', *Arena Magazine*, No. 45, February-March 2000, pp.31-33.

23 H Kajlich. 'According Respect', *Arena Magazine*, No. 45, February-March 2000, pp.26-28.

24 L Behrendt. 'Righting Australia', *Arena Magazine*, No. 45, February-March 2000, pp.24-26.

25 Leanne Reinke. 'The Languages of Reconciliation', *Arena Magazine*, No 45, February-March 2000, pp.2-3.

26 Another promising initiative led by former Senator Margaret Reynolds who long championed indigenous rights in Australia's national Parliament, was a July 1999 meeting in London of British Commonwealth peoples and experts. See *A Dia-*

167

logue on Indigenous Rights in the Commonwealth, ed. R. Bourne, M. Reynolds & H. Whall, Summary (London, July the 23rd 1999) and Appendices, Institute of Commonwealth Studies, University of London, 1999.

27 Speech to the United Nations, by Senator John Herron, Minister of Aboriginal and Torres Strait Islander Affairs, Geneva, July the 29th 1999. Online: http://www.atsia.gov.au/fr_press.html

28 Boni Robertson et al. *Aboriginal and Torres Strait Islander Women's Task Force on Violence*, Office of Women's Policy, Government of Queensland, Brisbane. On-line: http://www.qldwoman.qld.gov.au/

29 Kathryn Bennett. *Different Lives, Common Threads: A Report From the Circumpolar Women's Conference*, Dept of Government, University of Queensland, Brisbane, March 2000.

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THE PACIFIC ISLANDS

For indigenous and colonised peoples in the South Pacific, 1999 was a year of significant developments. The referendum on the 30th of August in East Timor riveted international attention, but had many spill over effects in the South Pacific region. The indigenous peoples of West Papua's struggle for human rights and self-determination has enjoyed a new upsurge. In 1999 Elections in many Pacific countries sharply posed the question of indigenous peoples' rights. In Kanaky (New Caledonia) there was the election of a new Government in which the Kanak independence movement participated. In the aftermath of a decade of conflict there was the creation of the Bougainville People's Congress. And the May 1999 elections in Fiji saw a Labour Party coalition victory bring in a new Constitution that attempts to balance the interests of the indigenous Fijian community and Indo-Fijian and general electors.

Independent Pacific island states are currently discussing new regional trade arrangements, including a free trade area, under the influence of the WTO and the new EU-ACP Suva Convention (to be signed in the Fiji Islands in June 2000). There are many concerns over protecting indigenous knowledge and intellectual property rights, as transnational corporations seek to exploit the rich biodiversity of the scattered islands and atolls.

168

But even as they work to develop new regional structures to cope with the effects of globalisation in the 21st century, the Pacific Islands are still struggling with the legacies of 19th and 20th century colonialism. At the end of the United Nations Decade for the Eradication of Colonialism, there are still many non-self governing territories in the Pacific and the struggle of indigenous people often manifests itself as a struggle for self-determination and political independence.

Kanaky (New Caledonia)

For the indigenous Kanak people of Kanaky (New Caledonia), political and economic life is governed by the introduction of the 1998 Noumea Accord (see *The Indigenous World 1998-9* for details of the Accord). The signing and ratification of the Noumea Accord is often presented as a sign of rapprochement between the Kanak independence coalition FLNKS, the conservative settler party RPCR and the French State. But the May 1999 elections have shown that historic tensions between pro and anti-independence forces remain strong. While the FLNKS dominates in the rural north and in the Loyalty Islands, the elections to the new Government have reinforced control by the RPCR over the Southern Province, including the capital Noumea. In spite of advances made by the FLNKS over the last decade, it is clear that the transition to independence will be hard fought.

The Noumea Accord for New Caledonia was signed on the 5th of May 1998 by the government of France, the FLNKS and RPCR. Following the signing, the French National Assembly and Senate passed amendments to the French Constitution, which were approved at a joint sitting of Parliament at Versailles on the 6th of July 1998. The agreement was then ratified by nearly 72% of the population of New Caledonia in a referendum on the 8th of November 1998.

On the 12th of March 1999, the French Parliament passed legislation to implement the referendum decision. This opened the way for May 1999 elections to the new political institutions for the country which will comprise the following:

- Three Provincial Assemblies, for the Southern Province (40 seats), the Northern Province (22 seats) and the Loyalty Islands Province (14 seats).
- A new 54 seat Congress made up of 32 Assembly members from the south, 15 from the north and seven from the Loyalty Islands, elected for five-year terms.

169

- A Government executive of 11 members, which replaces the French High Commissioner as the country's executive body, and can propose laws for adoption by the Congress.
- A 16 member Senate for customary chiefs, which must be consulted on issues that affect Kanak identity.

The majority of the indigenous Kanak population continues to maintain support for the independence movement. The FLNKS is a coalition of political forces, including the largest party *Union Calédonienne* (UC) and the *Parti de Libération Kanak* (*Palika*). The FLNKS remains the largest pro-independence formation, but key figures from the early FLNKS leadership have broken away to form a new political grouping - the *Fédération des Comités de Co-ordination des Indépendantistes* (FCCI).

By mid-1999, there are few signs that the settler party RPCR is engaging in a decolonisation process or working in partnership with the leaders of the independence movement. RPCR leader Jacques Lafleur has stated, "New Caledonia will never be independent". The RPCR has moved to deny the FLNKS positions in the Congress, taking control of all the parliamentary commissions. As the RPCR failed to get a majority in the new Congress in the elections (winning only 24 out of 54 seats), Jacques Lafleur openly allied his party with the breakaway FCCI to deny the FLNKS influence in local politics.

On the 28th of May 1999, Jean Leques of the RPCR was elected as President. The RPCR / FCCI has seven members in the new government while the FLNKS has four - Roch Wamytan (UC), Déwé Gorodé (Palika), Gerald Cortot (UC) and Aukusitino Manuohalolo (RDO). The FLNKS expected that the Vice-Presidency would go to its leader Roch Wamytan, but instead the RPCR used its numbers to appoint FCCI leader Leopold Joredie to the position. The FLNKS has protested against these manoeuvres as a breach of the spirit and letter of the Noumea Accord.

The 1999 Assembly elections were also notable for the number of women elected from all parties. This includes independence activists such as Nicole Waia, former director of the Kanak radio station *Radio Djiido*, one of nine women to enter the Congress. Kanak poet, teacher and writer Déwé Gorodé joins the new Government as one of four pro-independence representatives.

170

The new category of 'New Caledonian citizens' under French law has important implications for indigenous people, affecting voting, immigration and employment rights.

The reversal of immigration was a crucial element of the Noumea Accord negotiations, with vital implications for political rights, cultural values and local employment. The creation of New Caledonian 'citizenship' (as distinct from French 'nationality') was a legal mechanism to allow discrimination between French public servants and soldiers (who traditionally vote against independence) and people with a long-term commitment to the Pacific nation.

Only New Caledonian citizens can vote for Provincial Assemblies and the new Congress. This effectively freezes the electoral body in 1998, as only those people resident for ten years after 1988 and their descendants of voting age can participate in future electoral contests. (However, New Caledonian citizens retain their French nationality, and can join all other French nationals to vote for the French National Assembly and European Parliament). Independence leaders argue that demographic change and limits on immigration from France will create a basis for a solid vote in favour of independence at the end of the 15-year transition period.

But on the 15th of March 1999, the *Conseil Constitutionnel* (Constitutional Court) in Paris ruled that all French citizens residing in New Caledonia for at least 10 years - whatever their date of arrival - will be able to participate in provincial elections. (The Court evaluates whether laws passed by the French Parliament are in accordance with the French Constitution). Angered by the removal of a key plank of the Accord, the FLNKS leadership threatened a boycott of the May 1999 elections. The boycott call was only reversed when the French government agreed to amend the Constitution again. The failure of the French Congress to address this issue with the cancellation of its scheduled meeting on the 24th of January 2000, has left the question of citizenship rights in limbo.

Some Kanak union leaders are concerned that the transfer of powers from Paris to Noumea after 2000 will create new pressures for expatriate employment, due to the limited numbers of Kanaks with professional and technical skills. The 1996 census shows that in the 'liberal professions' there are 551 Europeans, seven Wallisians, three Tahitians but only two Kanaks! The imbalance will continue, as the RPCR has taken control of key responsibilities in the government relating to economic affairs, finance, budget, employment, public service, training and education - leaving the FLNKS with youth and sports, culture, health and relations with the Congress and Senate.

171

The Matignon and Noumea Accords process has brought significant inflows of government grants and foreign investment to New Caledonia without necessarily benefiting the local population. As with most Pacific capitals, there is now an influx of people from the rural hinterland to Noumea. The Southern province was once seen as a European enclave, but 25% of the province's population is now Kanak and 18% of it is islander. Some 8000 squatters, mostly Kanak and Wallisian, live in *bidonvilles* on the outskirts of Noumea.

The post-Matignon period has seen a cultural renaissance. This includes an upsurge in *kaneka* bands, fusing political messages with their rock/reggae beat, the inauguration of publications like *Mwà Véé*, which document Kanak art, dance, languages and oral history, many exhibitions of painting and sculpture by Kanak artists, and the production of much poetry and theatre by young writers. Many Kanaks have welcomed proposals such as the introduction of indigenous languages into the school curriculum, further land reform, the return of Kanak cultural objects and artefacts held in museums and galleries in France and other countries and negotiations over the name, symbols, anthem and flag of the country.

Non-government and community organisations are also active, with initiatives to address issues of education, health and violence against women. Concerns over decent housing are growing, as more Kanaks move to Noumea. NGOs try to develop culturally appropriate health programmes for the indigenous community on Maternal Child Health and HIV / AIDS. Per capita, New Caledonia has the second highest reported rate of HIV infection in the Pacific islands, at 69 cases per 100,000 people. The highest rate is found in French Polynesia.

In the face of RPCR intransigence, FLNKS President Rock Wamytan has called for "vigilance" from the international community during lobbying at the UN Decolonisation Committee, the Melanesian Spearhead Group and the South Pacific Forum. The United Nations Decolonisation Committee and the South Pacific Forum both sent special missions to Kanaky (New Caledonia) in August 1999, to study progress on decolonisation since the signing of the Noumea Accords. The United Nations delegation included ambassadors from Papua New Guinea, Chile and Vanuatu. At the same time, the South Pacific Forum Ministerial Committee on New Caledonia travelled to Noumea, for a five day visit to study developments.

New Caledonia's application requesting observer status at the South Pacific Forum was formally approved at the Forum leaders' retreat in Palau in Octo-

172

ber 1999, and the country has become an official observer at all Forum meetings. Observer status is being granted to the country as a whole rather than the FLNKS liberation movement - even though an anti-independence politician leads the government.

Te Ao Maohi (French Polynesia)

The French government will amend its Constitution later in 2000 to create a new statute of autonomy for Te Ao Maohi (French Polynesia). French Polynesia first had an autonomy statute in 1977. The statute was amended in 1984, then amended again in the legislation of the 12th of April 1996.

The new constitutional reform process went through a number of steps in 1999. A bill was framed and sent to the Territorial Council of Ministers on the 26th of May 1999. It was then adopted by the French National Assembly and the Senate. Once passed by a joint sitting of both houses, it will be incorporated into the French Constitution as Article 78 'Provisions for French Polynesia'. (A scheduled sitting of the French Congress was cancelled in January 2000, and the reform process is currently in limbo).

Under the new bill, French Polynesia will be an 'overseas country' rather than an 'overseas territory' of France, with increased jurisdiction over marine resources, communication and transport. At international level, French Polynesia will be able to join regional and even international organisations. French authorities can grant President Flosse the authority to negotiate and sign treaties. A 'Polynesian citizenship' will be created (in contrast to 'French nationality').

However, unlike the 'New Caledonian citizenship' envisaged by the Noumea Accord in New Caledonia, Polynesian citizenship does not place limits on the right to vote in Territorial elections. It only creates rights in regards to employment, setting up businesses and the protection of land ownership. The new bill reserves key sovereign powers for France: nationality; the guarantee of public liberty; civil rights; electoral law; justice; penal law; overseas relations; defence; maintaining order; finance; credit and; currency exchange.

The fundamental difference between New Caledonia and French Polynesia is that, under the Noumea Accords, New Caledonia has a clear path towards a vote on self-determination and independence, even though that vote has been delayed for 15 to 20 years. The current statute for French Polynesia however, has no provisions for a referendum on self-determination based on UN decolonisation principles. In spite of the trappings of sovereignty, the indigenous Maohi people are still under French colonial rule.

173

In the 1980s and 1990s, France opposed French Polynesia's wish to join the South Pacific Forum. But recently, the French government has strongly pushed for greater involvement for its Pacific colonies in the regional intergovernmental body of independent island nations. At its October 1999 meeting in Palau, the Forum Officials Committee held an extensive debate about French Polynesia's interest in being granted observer status. The Forum set up a committee to investigate the political status of French Polynesia following the proposed constitutional changes in Paris. A Special Forum Mission to Tahiti in mid-2000 will seek dialogue with all parties in the colony.

Local indigenous activists are campaigning on the issue of corruption in government, fuelled by France's strategic interest in maintaining a pro-French administration in Papeete. On the 24th of November 1999, a French court in Paris confirmed a conviction for corruption against Gaston Flosse, President of French Polynesia and leader of the conservative party Tahoeraa Huiraatira. Flosse was found guilty of offences relating to the 'Hombo affair', including the receipt of US$450,000 from the owner of an illegal casino in Papeete. The penalties imposed include a 100,000 franc fine, a two year suspended prison sentence, and one year's loss of civic rights. This last penalty is the most significant, as Flosse hopes to lead his party into the 2001 elections for the Territorial Assembly, and the loss of civic rights would mean that he is ineligible to hold public office for a year. (Flosse currently serves as President of French Polynesia and Senator for French Polynesia). A month later, Flosse was convicted again for corruption, receiving another fine and a suspended sentence for the 'Air Oceanie affair' (in which Flosse and Tahoeraa officials illegally used free flights to campaign in the outer islands in the early 1990s). Flosse is currently appealing the court's ruling. Opposition leaders have called for Flosse's resignation, and in December 1999, the pro-independence party Tavini Huiraatira organised a protest march against Flosse.

With the end of the nuclear testing programme in 1996, France is beginning to dismantle its military infrastructure at Moruroa, Fangataufa and Hao atolls. The Commander of French Forces in French Polynesia, Admiral Jean Moulin, announced in January 2000 that the Foreign Legion will be withdrawn from French Polynesia, and the military base at Hao Atoll will be closed in August 2000. The Nuclear Testing Centre (CEP) and French military started to dismantle the bases at Moruroa and Fangataufa in 1996. Only the port facilities, airstrip and three concrete bunkers are left, while the testing monitoring stations, communications towers and seismological instruments were returned to France in 1997. The end of nuclear testing has not

174

ended concern over the nuclear legacies left for the indigenous population. The Maohi people are still campaigning against the radioactive legacies of thirty years of testing at Moruroa and Fangataufa atolls, and the consequent impact on health and the environment.

Low-level radioactive waste was buried in old test shafts on Moruroa, then covered in concrete. A 1998 report of the International Atomic Energy Agency (IAEA) also found that high-level radioactive waste, including plutonium, was dumped in two shafts on Moruroa. Eight kilograms of plutonium still linger in the sediments of Moruroa and Fangataufa lagoons. The ocean dumping of other radioactive concrete and rubble from the bunkers used for plutonium tests was a breach of the London Dumping Convention (The Convention, signed by France in 1993, forbids the dumping of radioactive materials in the oceans).

Maohi non-government groups and church leaders in French Polynesia are campaigning to make France open its archives on the thirty years of nuclear testing. They argue that opening the archives would allow access to important data, assisting detailed study of the health of thousands of Maohi workers and French military and civilians technicians who staffed the nuclear tests site at Moruroa and Fangataufa between 1966 and 1996. There is also an urgent need to provide care and compensation to those people already affected by diseases they attribute to radiation exposure. The French Defence Minister has closed the archives for 60 years. However in February 1999, a major seminar was held in the French National Assembly in Paris, to look at the aftermath of the tests. Following his retirement as Executive Secretary for the Pacific at the World Council of Churches, John Taroanui Doom will coordinate a three year project to seek greater transparency from the French authorities.

The Eighth Nuclear Free and Independent Pacific (NFIP) Conference was held between the 19th and 24th of September in Tahiti, Te Ao Maohi (French Polynesia). The conference involved over 100 international representatives of NFIP groups, together with resource people and keynote speakers, observers, and staff of the Pacific Concerns Resource Centre (PCRC) - the secretariat of the NFIP movement. It was the first time that an NFIP conference could ever be held in the French occupied territories in the Pacific.

Struggles to protect the environment and sacred sites through land occupations and opposition to new tourism hotels and golf courses has become a feature of Maohi society. In recent years, the Territorial government has been

175

trying to boost the tourism industry, to generate revenue to replace French military spending that was reduced after completion of French nuclear testing in 1996. Under the *Loi Pons* and the *Loi Flosse*, business interests have been given tax write-offs and incentives to build new tourist hotels, even though existing hotels are underused.

In early 2000 local residents and environmental activists on Moorea Island launched a campaign to stop the dredging of Moorea lagoon, to create a beach for a tourist hotel. In February 2000, Moorea residents surrounded the dredge with canoes, to halt any dredging operation in Moorea lagoon. The French authorities were asked to send in the *gardes mobiles* (riot police) to clear away the protestors, and introduce US$10,0000 fines. The government's *huissier* (official bailiff) came to Moorea to register the name of everyone who had a canoe in the lagoon. Protestors refused to give their names, and one stated he would "rather die than let this sand go cheap for a hotel beach!"

Bougainville

Between 1989 and 1998 the war in Bougainville led to more than 12,000 deaths, in fighting between the Papua New Guinea Government and rebel forces under the command of the Bougainville Revolutionary Army (BRA) and Bougainville Interim Government (BIG). The 1998 Lincoln Agreement started a peace process, calling for the gradual withdrawal of the Papua New Guinea Defence Force (PNGDF) troops from the island, and the disarming of the BRA and pro-Papua New Guinea resistance forces. People on Bougainville welcomed the end of the conflict under a Peace Monitoring Group involving Australia, New Zealand, Vanuatu and Fiji. Reconstruction efforts are in progress under the supervision of South Pacific peacekeeping forces and the United Nations.

However, the total withdrawal of PNG military forces from Bougainville, as scheduled in the Lincoln Agreement, has not happened. As a result, the BRA and Resistance forces have not laid down their arms, although the BRA has submitted its proposals for a disarmament process to the Peace Process Consultative Committee, which oversees the peace initiatives on the island. Above all, the fundamental issue of self-determination has not been resolved.

Elections were held in May 1999 for a new Bougainville Peoples Congress (BPC) which includes elected and appointed members. In the week long BPC elections, the Bougainville Interim Government (BIG) leader Joseph Kabui was elected unopposed on a platform for independence for Bougainville. Following the elections, Joseph Kabui won the position of BPC President in

176

late May 1999. As well as the elected members, different political forces nominated candidates to be appointed to the Congress - the Bougainville Resistance Force, the former Bougainville Transitional Government (BTG), the Bougainville Interim Government (BIG) and Women. BRA leader Francis Ona refused Kabui's offer to reserve seats at the BPC for his members, and decided not to take part in the process since his vice-president Kabui broke ranks in April 1997.

Negotiations over Bougainville's future political status were slowed in 1999 by the positions taken by those Bougainville MPs in the PNG Parliament. These leaders argued that Bougainville should be returned to being one of the provinces of Papua New Guinea (as it existed before the hostilities broke out). Another factor has been the position of the Leitana Council of Elders based in the northern island of Buka, who also sought to maintain Bougainville's position as a province of Papua New Guinea.

On the 30th of June, former PNG Prime Minister Bill Skate signed the Hutjena Commitment with BPC President Kabui. The Hutjena Accord called for highest level of autonomy and a referendum on self-determination. Skate's replacement as Prime Minister, Sir Mekere Morauta, subsequently made an offer of greater autonomy for Bougainville.

After a two day visit to Bougainville in October 1999, PNG's Foreign Affairs and Bougainville Affairs Minister Sir Michael Somare announced that the PNG Government was willing to offer greater autonomy to Bougainville, which would become self-governing except for defence, police and foreign affairs. Somare initially told BPC leaders that the PNG constitution had no provision for a referendum. He urged the leaders to agree to the idea of developing a new type of government with increased autonomy. In response, BPC President Kabui stated that an autonomous Bougainville still falls short of the expectations of the Bougainville independence hardliners.

On another front, after an almost two year long war of words, the Laitena Council of Elders and the Bougainville Peoples Congress have set aside their differences for the sake of working towards creating a legitimate government for the people of Bougainville. The two groupings officially held a reconciliation ceremony on the 18th of October 1999, which other factions and leaders were invited to witness. Bougainvillean leaders then entered a series of negotiations in February and March 2000, in which they called for:

1. the implementation of the "highest level of autonomy", guaranteed by a treaty;

177

2. amendments to that PNG Constitution that can only be changed by Bougainvillean people and;
3. an agreement to hold a referendum on independence.

On the 23rd of March 2000, Sir Michael Somare and Bougainvillean representatives (Joel Banam from the Leitana Council of Elders, the Bougainville Governor John Momis, and BPC President Kabui) signed the Loloata Understanding. The latest in a series of negotiations included a commitment from the PNG government to change PNG's Constitution to allow a high degree of autonomy. A referendum on self-determination will only be held after autonomy has been tested for an unspecified period. BPC international spokesperson Moses Havini expressed concern that "the process of self-government and referendum were not addressed in concrete and certain terms".

In spite of the new Loloata Agreement, many Bougainvillean leaders are concerned that Papua New Guinea, supported by Australia, is resisting a transitional process leading to independence. Papua New Guinea has not fulfilled its obligations to withdraw PNG Defence Force troops from the island, and the issue of peace and self-determination in Bougainville remains unresolved.

West Papua (Irian Jaya)

The vote on the 30th of August 1999 in East Timor has had a significant impact on developments in West Papua, the former Dutch colony that makes up the western half of the island of New Guinea. West Papua has been under Indonesian control since the 1963 New York Agreement and the 1969 Act of Free Choice. But rapid changes are underway following the collapse of the Suharto regime, the independence struggle in East Timor, conflict in Aceh and the Moluccas, and increasing mobilisation on the ground in West Papua.

There has long been strong nationalist sentiment amongst indigenous West Papuans. This has been shown in a number of ways such as the music and cultural performances of murdered intellectual Arnold Ap, the decades long guerrilla struggle of the *Organisasi Papua Merdeka* (OPM) and organising in Catholic and Protestant church networks or amongst community organisations like LEMASA of the Amungme people.

Calls for independence have been criminalised by the Indonesian regime, with people being jailed for raising the West Papuan flag. The Morning Star flag was first raised on the 1st of December 1961, when the country was still a colony of the Netherlands. Throughout the 1970s and 1980s, Indonesian authorities opposed any use of this symbol of Melanesian identity and desire for self-determination. During 1999, however, flag raisings and other expres-

178

sions of pro-independence sentiment became commonplace. The February 1999 meeting between former Indonesian President B.J. Habibie and one hundred West Papuan church, community and tribal leaders - the Team of One Hundred - saw an unprecedented public expression of pro-independence sentiment.

Open calls for self-determination and independence have appeared in many parts of the country during 1999:

- In July, five men in Jayapura faced being taken to court accused of subversion, after a flag-raising attended by 100 people on the 1st of July in Genyem (in the Nimboran sub-district near Jayapura).
- To protest against Indonesia's decision to split Irian Jaya into three separate provinces, thousands of people marched in the capital Jayapura on the 14th of October and occupied the governor's office. Another thousand people marched in Nabire, while 350 marched to the office of the district head in Biak. One hundred West Papuan students even protested in Jakarta, outside the hotel where delegates of Indonesia's Parliament were staying.
- Thousands rallied in Merauke on the 22nd of October, calling for independence and criticising the new provincial structure. (While the peaceful crowd gathered at the local Assembly, provocateurs attacked nearby government buildings, leading to Indonesian military intervention).
- On the 1st of November, nine activists were put on trial in Sorong, charged with rebellion under Indonesia's criminal code.
- On the 1st of December 1999, tens of thousands of people rallied around West Papua to watch the Morning Star flag being raised in towns and villages around the country. The ceremony marked the 38th anniversary of the declaration of West Papuan independence from the Netherlands.
- In Timika, thousands of people gathered at the Catholic Church and raised the Morning Star flag on the 10th of November. Timika is located near the Grasberg copper and gold mine operated by a subsidiary of the US corporation Freeport McMoRan. In spite of Indonesian calls for the flag to be lowered, cultural groups from different indigenous communities established tents and, as the small encampment grew, the walls of the church were plastered with posters, pro-independence slogans and the banned Morning Star flag.
- The Morning Star flag remained flying at Timika until the 1st of December, when Indonesian troops and police intervened. Fifty-five people were

179

injured when the Indonesian forces opened fire on the crowd of about 2000 demonstrators.

- The 30th anniversary of the UN vote on the Act of Free Choice on the 19th of November and the December flag-raisings in West Papua were supported by solidarity actions in many countries around the world. In Jakarta, 200 West Papuans and their supporters marched to the MPR Parliament complex calling for self-determination.
- Protestors carried placards reading 'Autonomy, federalism, No! Independence, Yes!' and 'West Papuan women have no freedom'.

West Papuan students demonstrating in front of the Ministry of Interior, Jakarta, April 1999 (Foto: John Otto Ondawame)

These protests are slowly provoking a response. In December 1999 the Dutch Minister for Foreign Affairs informed Parliament that he had no objection to re-examining - from an historical perspective - the hand over of sovereignty of the Netherlands' former colony Dutch New Guinea (West Papua). In the same month Indonesia's new President Abdurrachman Wahid made a flying

visit to the province, which Indonesians know as Irian Jaya. As a sop to nationalist sentiment, Wahid announced that the province's name would be changed to Papua. While Papuan leaders have welcomed the fact that President Wahid is paying greater attention to West Papua, this has not lessened demands for independence. Wahid's offer of an autonomy package for Papua has been rejected, but leaders say the struggle for independence will be fought peacefully.

From the 23rd to the 26th of February 2000, participants at the first West Papua Congress to be held in the Indonesian occupied territory, demanded independence and rejected the outcome of the 1969 Act of Free Choice. The four-day congress attended by over 2000 supporters in Port Numbay (Jayapura) took place peacefully under the watchful eyes of a thousand local security personnel. Participants at the congress decided to set up a Papuan Presidium Council, which was tasked with preparations for a bigger congress, slated for April 2000. The Presidium comprises tribal, women, youth and student leaders as well as local scholars and foreign delegations. The congress elected Theys Eluay and Amungme leader Tom Beanal as chief executives of the Papuan Presidium Council. The Congress statement declared that, "It is our desire to choose freedom and to separate from the Republic of Indonesia, as was conveyed by the Papuan people to President Habibie and members of his reformation cabinet on the 26th of February 1999 at the presidential palace. We shall pursue dialogue and peaceful and democratic ways to realise the wishes of the West Papuan people in order to secure the agreement of the Indonesian government".

Guam

The Micronesian island of Guam was colonised by the United States of America after the 1898 Spanish-American War. In recent decades, the indigenous Chamorro people have campaigned for self-determination. Like New Caledonia and East Timor, the US territory of Guam was listed on the United Nations Decolonisation Committee list of non-self-governing territories in 1946. The Chamorre people of Guam have not received much support from other South Pacific nations in their quest for self-determination. However, the communiqué from the 30th South Pacific Forum, held in Palau in October 1999, states that, "*The Leaders received and noted the request by Guam for support from the Forum in its negotiations with the United States.*"

This single sentence is the first formal mention of Guam's political status in a Forum communiqué. It follows lobbying by Guam officials at the Palau

181

Forum, seeking Forum support to end Guam's status as a US territory and to redefine its colonial relationship with the United States. The Chamorro people of Guam will hold a vote to determine their political status before July the 4th 2000, after the creation of a Registry of Chamorro people who are eligible to vote.

After hundreds of years of Spanish occupation, the United States occupied Guam after the 1898 Spanish-American War. The island has been used as a strategic site for US global interventions with over one third of the island being occupied by US military bases. The US military uses neighbouring islands for bombing practice, and B-52 bomber crews that were trained in Guam in April 1999 were deployed in Europe to take part in NATO's war against Yugoslavia.

In 1982, Guamanians voted to push for Commonwealth Status within the United States as an interim step towards independence. The Organisation of People for Indigenous Rights (OPIR) was formed on the 5th of December 1981 by Chamorros who believed that the upcoming political status vote should not include all US citizens but should be limited to the indigenous people of Guam, who have become a minority in their own land. Since that time, members of OPIR and other Chamorro organisations have lobbied at local, national and international meetings to seek support for the right to self-determination for the Chamorro people.

While continuing to negotiate with the US government, the Guam Commission on Decolonisation is mandated to tie this process to the provisions of decolonisation in international law. In October 1999, Guam's Governor Carl Gutierrez and representatives of OPIR travelled to New York to testify to the UN Fourth (Special Political and Decolonisation) Committee. Governor Gutierrez asked the United Nations Fourth Committee to send a visiting mission to Guam on the occasion of the vote on self-determination. Rufo Lujan, of the Organisation of People for Indigenous Rights (OPIR), told the UN Fourth Committee about the Chamorro struggle for identity:

> *"We are talking about the catch phrase 'people of Guam' and for seventeen years have repeatedly attempted to clarify its meaning. We believe it is being used without thought by some, to avoid taking full responsibility for who has the right to decolonise the non-self-governing territory of Guam.*
> *"On the basis of this original report to the UN in 1946, it is obvious that the terms 'natives of Guam', 'Chamorros', 'Guamanian', and*

182

'inhabitants of Guam' are one and the same people and they are the people of Guam. We are the ones being discussed for the purpose of fulfilling the obligation under article 73 of the United Nations Charter. We are the ones affected by the language in the General Assembly resolutions, and we are the ones who may suffer as a result of misinterpretation. If there were no Chamorros, no native inhabitants, there would be no question of self-determination or decolonisation.

"The 1950 US Organic Act for Guam created by the US Congress is the document that governs us and clearly acknowledges our separate political existence as the Chamorro people. By virtue of the Organic Act, only certain portions of the US Constitution, treaties and laws of the United States are applicable to us. The US Congress can legislatively remove citizenship from the descendants of present Guamanians resident on the island (something it cannot do for the 50 US States or even US citizens residing in foreign nations). We cannot vote for the US President and do not have voting representation in the Congress that has plenary power over us.

"We formally ask that Guam not be removed from the list of non-self-governing territories with the UN Special Political and Decolonisation Committee, pending the attainment of the political status chosen to decolonise the territory through the self-determination of the Chamorro people. Guam has only one people who are colonised and under the protective eye of the United Nations. We, the Chamorro people, 'I taoto tano' *- the people of the land."*

At home, Chamorro organisations are actively campaigning for the return of land to its original owners. Chamorro landowners are calling for the return of land taken for military bases during the Cold War. During the 1990s, the US military began to hand back some land through the Base Closure and Realignment Commission (BRAC). However, much of the land has been given to other US agencies or to the Territorial government, rather than to the original Chamorro landowners. Large amounts of land, amounting to almost 20% of the island, have been given to the US Department of the Interior as "wildlife reserves". While welcoming the importance of nature reserves, Chamorro activists are fearful that the US military could reclaim these lands in times of future crisis.

Chamorro groups have formed the Colonized Chamorro Coalition (CCC), calling for the return of surplus military land to the original landowners. CCC members include the Organisation of People for Indigenous Rights (OPIR), Nasion Chamoru, the Ancestral Landowners Coalition, the Ritidian Family association, the Fuetsan I Famalao'an Chamoru, and the Familian Felisa Association. In a letter dated the 30th of September 1999 which was addressed to Guam authorities, the Coalition states:

> *"We, the Colonized Chamorro Coalition, are steadfast in our resolve that the lands of the colonised must be returned to their original landowners, expeditiously and unconditionally."*

The Colonized Chamorro Coalition has launched a series of protests in recent months to highlight their claims. In October 1999, Chamorro landowners entered a wildlife refuge at Ritidian Point on Guam, run by the US Fish and Wildlife Service. The land was taken by the US military after World War Two. In 1994, the US Department of Defence closed a naval communications facility at Ritidian Point, and transferred control of the land to the US Department of Interior's Fish and Wildlife Service. In defiance of bans on overnight camping, members of the Pangelinan, Castro, Aguero and Flores families camped by the beach from the 8th to the 11th of October, on their traditional lands. US Wildlife officers took down the numbers of protestors' cars, and issued US$100 fines for breach of park regulations. On the 11th of October, over 100 members of the land-owning families and their supporters marched from their campsite to the office of the US Fish and Wildlife Service at Ritidian Point.

Landowner Juan Flores said the original owners have never been given the opportunity to use their 317 acre plot of land after it was taken by the US Government. Flores said, "We want our land back. Land is getting scarce and our families are growing. How are we going to accommodate the needs of our future generations, if we can't provide for them now? That is why we are protesting to show those in authority that it's time to return our land."

On the 14th of January 2000, the Coalition demonstrated during the visit of a US congressmen on an inspection tour of US military bases on Guam. The Coalition called for: a) the return of excess lands under federal control; b) changes in political status; c) war reparations for damage during World War Two; and d) the environmental clean up of lands used by the US military and other federal agencies. The coalition held a second protest in January 2000 to object to the jailing of Angel Santos, a long time Chamorro activist

184

and former Senator in Guam. US authorities sentenced Santos to six months jail for continuing his protest over the theft of his grandfather's land.

Ka Pae'aina (Hawai'i)

From 1994 to 1998, the State of Hawai'i created a Hawaiian Sovereignty Elections Council (HSEC) to hold a Native Hawaiian Constitutional Convention. In 1998, HSEC became non-government *Ha Hawaii*. In January 1999, only 8867 *Ha Hawaii* voters - out of 101,951 registered by the Office of Hawaiian Affairs (OHA) - elected 78 delegates to an 85 seat Native Hawaiian Convention, leaving seven seats vacant.

Between the 5th and 11th of December 1999, the US government organised Reconciliation Hearings on five of the main islands of Ka Pae'aina (Hawai'i). The hearings came six years after the 1993 US Congress Apology Resolution (Public Law 103-150). Under this law, the US government apologised to the Kanaka Maoli people for the United States' role in the illegal overthrow of the Hawaiian Kingdom in 1893. The resolution called for undefined 'reconciliation' between the United States and the Kanaka Maoli people.

During the December hearings, more than 500 Kanaka Maoli testified before US Interior Assistant Secretary John Berry and US Tribal Justice Director Mark Van Norman. Kanaka Maoli witnesses asserted that the Kanaka Maoli nation exists separately from, and is foreign to, the United States. Therefore, the US President and/or his Secretary of State should be meeting with Kanaka Maoli nation representatives as equals, to define and negotiate the term 'reconciliation'. The Royal Order of Kamehameha refused to participate in the hearings and instead submitted a letter of protest. In Hilo, on the island of Hawai'i, Kihei Soli Niheu acquired notoriety by 'mooning' the two Washington officials, asking them to take his message back to President Clinton.

The hearings' format also drew criticism. Written testimonies were requested in advance and oral presentations were limited to two to three minutes. In Honolulu, when Office of Hawaiian Affairs (OHA) Trustee Mililani Trask was not permitted to exceed three minutes, she walked out. When Pomaika'iokalani Kinney spoke on Kanaka Maoli independence beyond three minutes and was threatened with removal by security officers, a dozen Kanaka Maoli from the audience stood around him until he completed his testimony.

Speakers repeatedly accused the US officials of violating Kanaka Maoli self-determination by limiting discussion of "the political relationship of Kanaka Maoli to the United States within the framework of Federal law". Witnesses pointed out that the only applicable domestic law was Federal In-

185

dian law, which provides for United States recognition of Indian tribes as "domestic dependent nations' and "wards" "subject to the plenary power of Congress". Witnesses charged the United States with violating its 'sacred trust' to the United Nations to promote Kanaka Maoli self-determination when the United States proceeded with its fraudulent Statehood process in 1959. However, when Kanaka Maoli speakers called for the United States to support reinscription of Ka Pae'aina on the UN List of Non-Self-Governing Territories eligible for decolonisation, Berry replied that he was not empowered to pursue international law and processes for these were outside the purview of the Department of Interior.

A month later, on the 14th of January 2000, the deadline for the submission of 'Reconciliation' Hearings testimonies, the newly reorganised OHA Trustees Board approved a 29 page OHA testimony. In spite of vigorous protests from the Kanaka Maoli community at the OHA board meeting, the OHA trustees asked that:

- The US President and Federal agencies formalise and implement the political trust relationship between Native Hawaiians and the United States in a manner that would make it equivalent to the legal and political status granted to Native Americans.
- The US government establish a Tribunal for Native Hawaiian claims similar to the Waitangi Tribunal in Aotearoa (New Zealand).
- The United States support and facilitate self-determination and the convening of a Native Hawaiian Convention.
- A separate Office of Hawaiian Affairs be established in the US Department of Interior.
- The United States and OHA determine the lands that should be returned to the Native Hawaiian people and assess back rent payment for the United States' use of 'ceded' lands, while the Interior Department imposes a freeze on 'ceded' lands sale, exchange and transfer until Native Hawaiian claims are resolved.

Economic Change in the Pacific Islands

As with other regions, indigenous peoples in the Pacific Islands have struggled under the impact of a series of structural adjustment programmes, sponsored by the Asian Development Bank (ADB) and the IMF. The ADB 'reform' programmes have been geared towards trade liberalisation, the reduction of the size of the public service, and increased governmental efficiency. This has led to severe impacts in countries where public sector institutions

186

are major employers. Under ADB sponsored reform programmes, there have been large reductions in the size of the public sector. In the Cook Islands, 57% of government staff were sacked between 1996 an 1998. There were significant reductions in the numbers of government employees in other Forum countries. The Federated States of Micronesia suffered a 37% cut in numbers between 1996 and January 1999. The Marshall Islands a 33% cut between October 1995 and March 1999. The Solomon Islands a six per cent cut between 1996 and March 1999. And Vanuatu a 10% cut between January 1998 and February 1999.

Another significant change is the negotiation of a new 'partnership arrangement' between the European Union (EU) and the 71 member ACP grouping of African, Caribbean and Pacific countries. In February 2000 EU and ACP governments finalised a new agreement governing relations between European nations and their former colonies in the developing world. The new agreement, to be signed in Suva (capital of the Fiji Islands) in June 2000, covers human rights, trade, aid and investment. It replaces the Lomé Convention, which has governed EU-ACP relations for the last 25 years.

Currently, there are 11 South Pacific countries and territories in the ACP group - the three French Pacific colonies (New Caledonia, French Polynesia and Wallis and Futuna) and eight South Pacific Forum members (Fiji Islands, Kiribati, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu). Forum policy has been to seek the involvement of the other six Forum island members in the post-Lomé process (the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, Niue, Nauru, and the Cook Islands). The Pacific region has received very little compared to Africa and the Caribbean under the Lomé Covention. In Lomé II (1980-1985), the Pacific received 6.2 % of the total funds available to the ACP countries. From 1985-90 (Lomé III), it went down to 5.8%, and from 1990-1995 (Lomé IV) this amount decreased to three per cent.

The EU-ACP partners agreed on new trading arrangements based on the following initiatives:

- To conclude new WTO compatible trading arrangements, removing progressive barriers to trade between them and enhancing co-operation in all forms of trade.
- The preparatory period for the new trading arrangements shall end by the 31st of December 2007.

187

- The commodity protocols where the EU offers limited duty free market access for certain ACP products (beef, veal, rum, bananas, etc.) are to be reviewed at this time.
- Economic Partnership Agreements shall be negotiated during the preparatory period. The negotiations for these will start in the year 2002.

The growing pressure for trade, banking and investment policies to be WTO compatible is also having an impact of Pacific Island countries. Three Pacific Island countries are full members of the World Trade Organisation (WTO) - the Fiji Islands, Papua New Guinea and the Solomon Islands - with another three countries currently applying for membership. The Forum Secretariat is developing a dialogue between Forum member governments over the creation of a Free Trade Area (FTA) for Forum Island Countries. Australia and New Zealand are lobbying for their inclusion in an FTA, designed to assist the small island states deal with their vulnerability to rapid economic, social and environmental changes.

Pacific governments are also lobbying the United Nations to revise the UN criteria for defining poverty, so that they might take account of the special situation on small island states which are vulnerable to economic, social and environmental change. This was a feature of the April 1999 debate on the sustainable development of Small Island Developing States at the UN Commission on Sustainable Development, and the September 1999 Special Session on Small Island Developing States.

Pacific Women

Here in the Pacific, as elsewhere in the world, indigenous women have been evaluating the results of the 1995 Fourth World Conference on Women in Beijing, and preparing for Women 2000, the 'Beijing Plus 5' conference which will evaluate the implementation of the Platform for Action from the vantage point of a global summit. In July 1999, 30 women from the Pacific joined 20 Aboriginal and Islander women, together with other sisters from Australia and Aotearoa (New Zealand), to prepare a Pacific response to the 'Beijing plus 5' meeting. Focal areas for change include:

1. *Women and the Economy* - addressing the negative effects of globalisation, World Trade Organisation (WTO) policy, and the burden of debt on many women in the region, which has led to the increasing feminisation of poverty, particularly in the case of indigenous and migrant women.

188

2. *The Continuing Human Rights Abuses of Women* - addressing violence against women, rape, trafficking, forced prostitution, the marginalisation of minority groups and denial of land rights and reproductive rights.
3. *Women in Armed Conflict* - addressing the increase of militarisation and involvement of women in situations of conflict across the region.
4. *Institutional Mechanisms to Promote Equality for Women* - addressing the need for a much stronger focus on strategies such as gender mainstreaming, educational reform and curricula to ensure access and equity for women to enable their participation in mainstream institutions.
5. *Political Participation and Decision Making* - addressing the continued low level of participation by women in politics and decision making roles. This participation is crucial to the empowerment of women and to their ability to achieve equal status in all aspects of life.

Women from the Pacific especially highlighted the issue of *women and the environment*, including: greenhouse emissions; genetically engineered and modified food resources; intellectual property rights; land and water degradation; neocolonialism; and corporate possession of traditional land resulting in the erosion of spiritual connections to the land. As the report of the July 1999 meeting stressed, "The persistence of militarism and the nuclear industry has perpetuated environmental degradation. Women of the Pacific insist upon:

- an end to uranium mining in Australia;
- a total ban on nuclear and radioactive waste dumping in the Pacific region and;
- health programmes for women and children affected by nuclear testing".

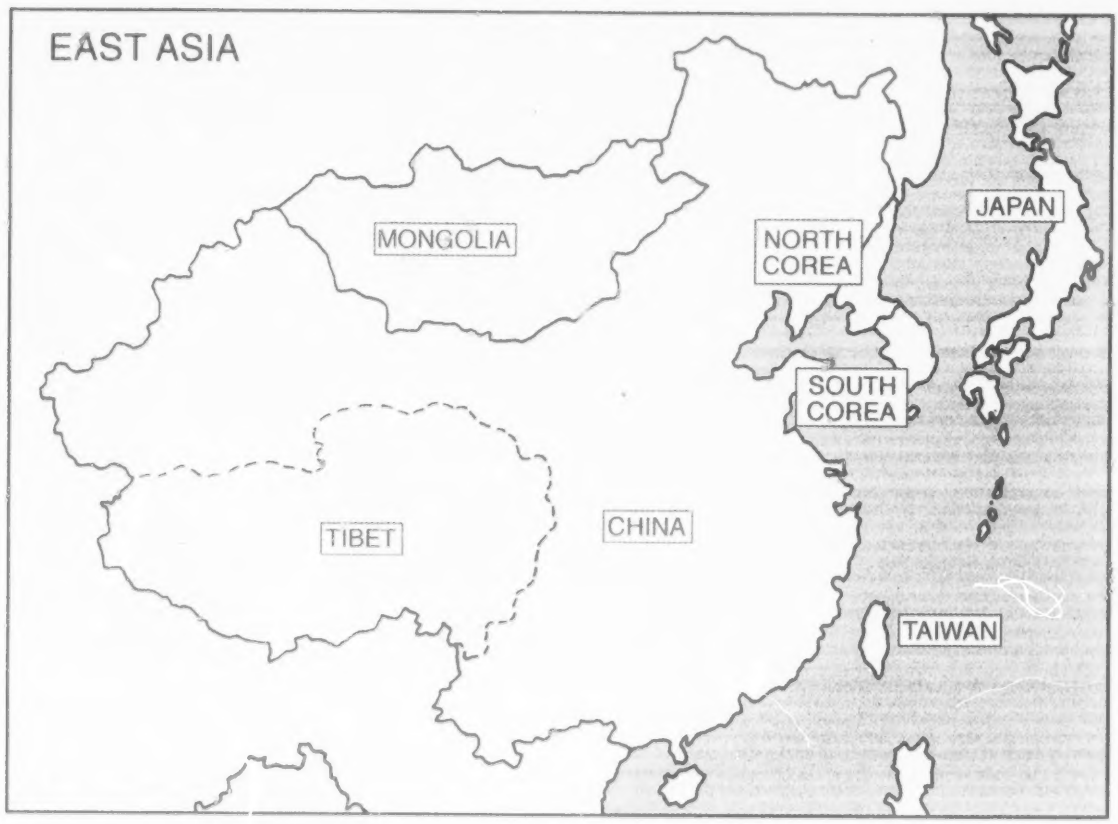
Pacific women are greatly affected by the radioactive legacies of 50 years of nuclear testing in the Pacific by the nuclear powers (France conducted 46 atmospheric tests at Moruroa and Fangataufa atolls between 1966 and 1974, before moving their tests underground. The USA conducted 67 atmospheric tests at Bikini and Enewetak atolls in the Marshall Islands between 1946 and 1958, while Britain conducted 22 atmospheric tests in Australia and Christmas Island). Scientists are slowly beginning to analyse the impact of nuclear testing on the indigenous population of the islands. Medical studies are showing that women in the Marshall Islands and French Polynesia face a higher rate of thyroid problems than men.

In 1999, a joint Japanese, US and British team published preliminary results of medical studies on thyroid cancers in the Marshall Islands. The report, published in the *Tohoku Journal of Medicine*, shows that nearly four in 10 women alive at the time of the 1954 Bravo test on Bikini atoll have developed thyroid tumours. Overall 5825 Marshallese were studied between 1993 and 1997 as part of a nation-wide study. 25.17% of those studied had thyroid nodules, with 1.17% of them being cancerous. The Japanese study shows that women have a much higher rate of thyroid problems than men. Women alive in 1954 had a 37.7% rate of thyroid nodules, while the rate for Marshallese men was 21.2%.

A study by the French research institute *Institut National de la Santé et de Recherche Médicale* (INSERM) found 155 reported cases of thyroid cancer in French Polynesia between 1985 and 1995 - 120 were in women and 35 in men. The study reports that the number of cases has been increasing in the period 1985 to 1995 (six reported cases of women with thyroid cancer in 1985-6, 15 in 1989-90 and 36 in 1993-4).

This report draws on material published in Pacific News Bulletin, the monthly magazine of the Nuclear Free and Independent Pacific (NFIP) movement. For subscriptions, contact Stanley Simpson, Pacific Concerns Resource Centre (PCRC), Private Mail Bag, Suva, Fiji. E-mail: pcrc@is.com.fj Fax: (679) 304755.

190



Countries covered in this issue: Japan, Taiwan

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EAST ASIA

JAPAN

Ainu: The Domestic Debate Over the Terms 'Indigenous Peoples' and 'Indigenous People' in Japan

As the discussion of the UN Declaration on the Rights of Indigenous Peoples proceeds, the debate over the terms 'indigenous peoples' and 'indigenous people' has emerged as the main point about which the indigenous side and states cannot reach a consensus. A number of governments have said that they do not have any difficulty in accepting the term 'indigenous peoples', while some governments still keep on insisting that they do not like it for some reason. It is unfortunate that the Government of Japan is one of the latter. Still, the Ainu people hope that the Government of Japan will recognise the Ainu people as an indigenous people in Japan and approve the Declaration as it is. In fact changes have occurred. The Government of Japan has changed its view with respect to ethnic, religious and linguistic minorities. It will therefore be helpful in deepening the analysis of the attitude of the Government of Japan, to look at the changes in terminology in the periodic reports to the Human Rights Committee supervising the implementation of the International Bill of Human Rights Covenant on Civil and Political Rights.

Article 27 of the International Bill of Human Rights Covenant on Civil and Political Right states:

> *"In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."*

The first report submitted by the Government of Japan is interesting because there is no provision regarding ethnic groups in the Japanese Constitution or laws.

The 'Initial Report of States parties due in 1980', states with regard to Article 27 that:

"The right of any person to enjoy his own culture, to profess and practice his own religion or to use his own language is ensured under Japanese law. However, minorities of the kind mentioned in the Covenant do not exist in Japan."

In the final sentence of the initial report, the Government of Japan denied the existence of ethnic, religious or linguistic minorities in Japan. This follows the logic introduced from the Western world according to which all individuals should be equal under the law. It seems that the Government of Japan insists that, "As far as the right of the individual is guaranteed, there is no problem." This is the basic attitude of the Government of Japan.

In the second report we find no changes in the attitude of the Government of Japan, and only minor and insignificant changes to some terms (for example 'his' was replaced by 'one's'). But readers will find that the Government of Japan did in fact mention the Ainu people for the first time in this report. However, they were very careful to avoid the term 'the Ainu people' ('Ainu minzoku'). Even today, they are still calling the Ainu the 'people of Ainu descent' ('Ainu no hitobito'). For example, in the Ainu Culture Promotion Law enacted in 1997, there is no usage of the term 'the Ainu people' but instead the term 'people of Ainu descent' is used. On this point the Government of Japan is very consistent.

The 'Second Periodic Report of States parties due in 1986' states with regard to Article 27 that:

"In Japan, no person is denied the right to enjoy one's own culture, to practice one's own religion, or to use one's own language.

"As for the question of the people of Ainu descent raised in relation to Article 27, while it is recognised that these people preserve their own religion and language and maintain their own culture, they are not denied enjoyment of the right mentioned above, as Japanese nationals who are guaranteed equality under the Japanese Constitution."

The Great Change

A great change occurred between the third report and earlier reports. For the first time, the Ainu are referred to as "the people of Ainu".

The 'Third Periodic Report of Japan', dated December the 16th 1991, states that:

193

"In Japan, no person is denied the right to enjoy one's own culture, to practice one's own religion, or to use one's own language.

"As for the question of the people of Ainu raised in relation to Article 27 of the Covenant, they may be called the minorities of that Article, because it is recognised that these people preserve their own religion and language and maintain their own culture. The people of Ainu are not denied the enjoyment of the rights mentioned above, as Japanese nationals whose equality is guaranteed under the Japanese Constitution."

Readers may be surprised to see that the Government of Japan recognised the existence of minorities mentioned in the Covenant, despite the fact that they did not do so four years earlier. How could this have been possible? It was possible only because of the immediate criticism that arose from the international community after Prime Minister Nakasone made discriminatory comments against African-Americans and Hispanic people in the US.

The Hokkaido Utari Measures in the Report

In order to improve the life of Ainu people, the government of Hokkaido has been taking comprehensive measures to promote their education, culture, industry and to improve their living environment, by formulating the 'Hokkaido Utari Welfare Measures' three times since 1974. ('Ainu' means 'human being' and 'Utari' means 'compatriot' in the Ainu language).

In 1974, the Government of Japan established the 'Liaison Conference of the Ministries and Agencies concerned with Hokkaido Utari Welfare Measures'. They did this in order to co-operate with the government of Hokkaido in the matter of Utari welfare measures and in order to help promote them smoothly. The Government is also making efforts to increase the budget related to the Utari welfare measures, with the close co-operation of the administrative organs concerned.

According to the 'Survey on the Hokkaido Utari Living Conditions' conducted by the Hokkaido government in 1986, the living standard of the Ainu has improved steadily. But the gap between the living standards of the general populace in Hokkaido and those of the Ainu has not been narrowed as expected. We have to pay attention to the fact that the government mentioned the gap in living standards between the Ainu people and Japanese nationals in general, because this fact shows that the Ainu people have suffered from racism.

194

The 'Fourth Periodic Report by the Government of Japan' dated June the 16th 1997 reports with reference to Article 27 on policies related to the Ainu people on the Hokkaido Utari Measures:

> *"The living standard of the Ainu people has improved steadily, but the gap between the living standard of the Ainu people and that of the general public of Hokkaido has not narrowed according to the 'Survey on the Hokkaido Utari Living Conditions' conducted by the Prefectural Government of Hokkaido in 1993. The Prefectural Government of Hokkaido therefore endeavours to improve further the living standard of the Ainu people and to eliminate the difference in living standards between the Ainu and the general populace by promoting the 'Fourth Hokkaido Utari Welfare Measures (1995-2001)' as a continuation of the 'Third Hokkaido Utari Welfare Measures', which were described in the Third Periodic Report.*
>
> *"The Government of Japan, as was described in the Third Periodic Report, continues to offer its co-operation in the above measures, which are being promoted by the Prefectural Government of Hokkaido, and it is working to complete the related budgets so that these measures may come into effect smoothly."*

The report continues by referring to the 'Round Table on the Policy for the Ainu People'.

> *"Following a request by the Chief Cabinet Secretary, 'The Round Table on the Policy for the Ainu people' started considering policy for the Ainu people in March 1995. A report was submitted to the Chief Cabinet Secretary in April 1996. This report concludes that it is desirable for the Government of Japan to take appropriate measures, including legislation, in order to preserve and promote the Ainu language, tradition and abolish the former 'Hokkaido Natives Reservation Dispensation Law' and other laws.*
>
> *"The report is based on the characteristics and circumstance of the Ainu people, who have lived in Hokkaido, Japan's inherent territory, since the end of the Middle Ages even before the Wajin people's arrival. The Government of Japan then expressed its commitment to take*

195

appropriate measures, respecting this report and studying details of its content.

('Ainu' means 'human being' in the Ainu language; 'Utari' means 'compatriot' in the Ainu language; 'Wajin' means all other Japanese, except the Ainu themselves.)"

It is surprising to find that the term 'the Ainu people' is used in this English translation of the fourth report, because politicians and bureaucrats of the Government of Japan had always been so careful to avoid the term 'the Ainu people' in any documents including the Ainu Culture Promotion Law mentioned above. It was almost unbelievable that this was the official report submitted to the UN by the Government of Japan. And indeed, in the Japanese version the term 'Ainu no hitobito' ('people of Ainu descent') is still retained. Ainu representatives consider it important that the deceptive attitude of the Government of Japan is made known.

It is also important to pay attention to the fact that the report was dated June the 16th 1997. This is because on March the 27th 1997 the Sapporo District Court stated in its decision on the Nibutani Dam that the Ainu people are an indigenous people of Japan. This was the very first official recognition of the Ainu as an indigenous people. As a result both the decision in which the Court ruled it was illegal to take land away from the plaintiffs (the Ainu people) without respect for Ainu tradition and culture, and the recognition of the Ainu people as an indigenous people of Japan, were circulated round the world - especially to fellow indigenous peoples - being seen as a mark of great progress for Japan's indigenous movement. It appears that the Government of Japan is giving up the use of the term 'people of Ainu descent' due to pressure from the international community.

In the footnote of the report an explanation is given of some of the terms used. One of them is 'Wajin' which, according to the report, "means all other Japanese, except the Ainu themselves". This definition of 'Wajin' is not correct. 'Wajin' refers to the majority of Japanese nationals. And we have to point out that the definition given in the report neglects the historical fact that the Government of Japan integrated Ryukyu (Okinawa), which used to be an independent kingdom, into Japanese territory in 1872. The authors are sure that the brothers and sisters of Ryukyu will never agree to that definition.

196

The Ainu Culture Promotion Law and the Debate

The Government of Japan has said that it would not accept the term 'indigenous peoples' without a clear definition of it first. But they should not forget the fact that the aim of the Ainu Culture Promotion Law should be "to realise a society in which the ethnic pride of the Ainu people should be respected". This is the first appearance of the term 'ethnic' in Japanese legislation. Even though no clear definition of the term 'ethnic' has yet been announced, in reality it has appeared at last. The usage of the term in the legislation can be interpreted as a sign that the Government has a potentially promising concept of the term. And it will be the key to starting a domestic debate about the terms 'indigenous peoples' and 'indigenous people', as the Government of Japan has, in the third report to the Human Rights Committee, already recognised the existence of a minority which maintains its own culture, religion, and language.

As a result of the Ainu Culture Promotion Law enacted in 1997, local activities to preserve the Ainu language, Ainu traditional dances and songs, traditional wood carving skills, etc. have been revitalised. This is not only because of financial support from the foundation that was established according to the law, but also because of the positive psychological effect of replacing the former Aborigines Protection Law with the new law.

However, it has to be pointed out that application for financial support from the foundation can be submitted not only by members of the Ainu people but by all nationals interested in Ainu culture. The establishment of the fund for self-reliance, which has been one of the Ainu people's main demands, was not included in the law, despite the establishment of the foundation for 'everyone', through which financial support is provided for cultural and academic activities. And the procedure itself can be quite tiresome. Therefore, some people have doubted whether the programmes based on the new system will turn out to be very useful for the Ainu people. Moreover the basic fund was only provided by the Prefectural Government and 62 cities, towns and villages of Hokkaido. This implies that local administrations outside of Hokkaido have no responsibility towards those issues affecting the Ainu people, and that the foundation's activities cannot therefore be nationwide.

It does not have to be emphasised that equality under the law must be guaranteed. However, in spite of the significance of there being equal opportunities, as long as people suffer from racism and poor living conditions, efforts have to be taken to guarantee equality. Such issues are ultimately the result of the Government of Japan's policy not to recognise the existence of indigenous peoples in Japan.

197

Meetings are planned with the Bureau of Hokkaido Development and the Ministry of Foreign Affairs responsible for the Ainu Culture Promotion Law, which, in addition to making periodical reports to the United Nations, will hopefully help clarify what kind of legislative concept underlies the terms 'ethnic' and 'the Ainu people'. It will also seek to clarify whether the changes in the reports will affect the position taken by the Government of Japan with regards to the terms 'indigenous peoples' and 'indigenous people'.

TAIWAN

The biggest disaster for the indigenous peoples of Taiwan in 1999 was the earthquake. In the early morning of September the 21st 1999, a strong earthquake (7.3 on the Richter Scale) hit the country, endangering many indigenous people living in the central highlands, the backbone of Taiwan. Fortunately, the earthquake itself did not kill many indigenous people. However, the earthquake revealed long-term problems (such as environmental destruction, neglect by local governments in the indigenous peoples' areas and a lack of grassroots organisations) that are increasingly undermining the livelihoods of indigenous people.

Prejudice and Discrimination

The indigenous peoples of Taiwan have experienced prejudice and discrimination for a long time, a fact which was sadly apparent during the earthquake disaster. For instance, during the early stages of the earthquake disaster, most of the victims of the collapsed buildings were desperately looking for shelter and food. A lot of aid and services were provided, and schools and other institutions offered shelter to the victims. At several places where indigenous and non-indigenous people were mixed together, indigenous people reported that they were refused access to food, being told to "go back to your villages to get food".

Environmental Destruction

In 1998, according to official statistics, the indigenous peoples of Taiwan number over 110,000 households with a population of 410,000, most of whom live in the highlands. However, as a result of long-term development projects, most of the highlands, the homeland of the indigenous peoples, has been destroyed. Landslides have been the worst nightmare for indigenous people living in the mountains. During the rainy and typhoon seasons, indigenous

people suffer the effects of mudslides and, more often than not, the roads are blocked by fallen rocks. The earthquake has only worsened the already serious problems. Moreover several indigenous villages are surrounded by dams. The villagers, especially those living downstream are worried that the dams will collapse. Even if the dams are safe, their lands along the riverbanks have been washed away because of floods.

Unemployment

One official national survey of indigenous peoples shows that 7.39% of the heads of indigenous peoples' households are unemployed. The primary reasons for their being unemployed are as follows: age (39%); retired (28.75%); disabled and sick (18.84%) and unable to find jobs (4.84%). When classified by region, the major reasons (70.7%) for unemployment amongst heads of households in highland areas are age and being retired. In lowland areas being unable to find a job accounts for 17.86% of the heads of indigenous households who are unemployed. In 8.27% of cases their job prospects are also affected by the presence of migrant workers.

In order to increase the profits of private business, the government has a policy of inviting migrant workers from southeast Asia. These migrant workers are paid the minimum wage and their work is often dangerous, difficult and demeaning. The jobs that the migrant workers take are those that indigenous peoples used to occupy, such as construction work. Therefore, indigenous people - especially those living in cities - commonly feel antagonistic towards the migrant workers for taking their jobs away from them. To help with reconstruction after the earthquake, many construction projects were proposed. However, there is no guarantee that indigenous people will be employed on those reconstruction projects since most companies prefer to import migrant workers to reduce their expenses.

According to the same official statistics, most young indigenous people live in the cities for the sake of better education and employment opportunities. However, as the above-mentioned figures show, their dreams of finding a better livelihood in the cities are indeed often shattered. During the earthquake, numerous apartments in the cities collapsed, leaving many urban indigenous people homeless. Since many of them are unemployed or underemployed, they can hardly afford to buy or rent new apartments. Consequently, many have returned to their villages.

Nevertheless, the situation in the villages is not much better. The primary sources of income for indigenous people in the villages are growing cash crops, such as fruits, vegetables and tea, doing odd jobs on farms, or cleaning

J. 199

and construction work in nearby towns. The damage caused by the earthquake to the road and irrigation systems has resulted in great losses. Those relying on odd jobs on farms immediately lost their major source of income. Furthermore, many odd jobs come from the hotels and restaurants at nearby tourist sites. The earthquake has significantly decreased the number of tourists coming to the areas, which leads to unemployment among indigenous people, especially women, who used to work as janitors at the hotels and restaurants.

The Land Issues and the Development of Villages

The above problems are indeed related to the land issue, which is of critical importance to the indigenous peoples of Taiwan. It is conspicuously problematic as a result of the nationalisation, privatisation and commodification of ancestral land, and the consequent weakening of indigenous villages. Since the Kuomintang (KMT) government took over Taiwan in 1949, it has continued the land policy implemented by the Japanese in 1948, which designated ancestral lands as 'reserved' by simply brandishing a sheet of paper entitled 'Management Regulations of the Reserved Highlands in Counties of Taiwan Province'. Essentially, the state 'reserves' land for the use of the indigenous peoples, on the premise that the state owns it and therefore has the right to confiscate indigenous people's lands for the sake of the 'public interest'. And indeed the state has done just that. It has ordered the establishment of Yu-Shan, Tairugu, Shueiba and Kenting National Parks, afforestation projects by the Bureau of Forestry, and the construction of dams along the Taan and Chrousui rivers, to name only a few projects that have led to indigenous people's activities being restricted by strict laws and regulations. The lives and livelihood of indigenous peoples are thus seriously affected.

As a result of Taiwan's developmentalist policy, almost all of the remote areas have been drawn into a cycle of rapid economic development. However, since the indigenous peoples are economically and politically disadvantaged, once they became involved in the market economy, the communal and sustainable use of land ceases and instead it is used to grow cash crops for profit. As a result their domestic economies have been marginalised, they have been made dependent and have been left open to exploitation by capitalists. Consequently, even reserved land is owned by non-indigenous people, because sheer poverty has forced many indigenous owners to sell their lands. And still others are deceived, seduced or forced into doing so. Statistics, which have not been officially admitted but which are widely accepted, illustrate the aforementioned fact. Under the Japanese government reserved indigenous

people's lands amounted to 170,000 hectares. At present, while the land owned by indigenous peoples is said to amount to some 240,000 hectares, the area actually used by indigenous people, that is which has not ended up in the hands of non-indigenous people, is only 80,000 hectares.

The cultures, social institutions and relations of the indigenous peoples are deeply rooted in land, a fact which distinguishes them from the majority of society. However, under the developmentalist Taiwanese state, the policy towards the indigenous peoples is that of 'modernisation'. Due to the aforementioned fact that they are dependent on development, the indigenous peoples of Taiwan have been increasingly assimilated into mainstream, 'modern' society. As a result of the rapid economic changes among indigenous communities, indigenous social systems have been profoundly altered, often to the point of disintegration. Many communities have now lost their distinctive cultures. With the state ordering intrusive development projects, natural resources are exploited and indigenous people can no longer maintain their traditional village livelihoods. This has resulted in the outflow of young people to higher education and employment. Those left in the villages can hardly continue the traditions of their ancestors due to economic hardship and the disintegration of their communities, factors which have also led to widespread alcoholism.

Difficulties in Reconstruction

Since the earthquake, indigenous people have been inundated with governmental promises of reconstruction, but very few of these have been implemented. The indigenous peoples are very confused and do not have proper access to information, especially with regard to the policies in question. Moreover, many of the reconstruction plans are made without sufficient understanding of the realities that indigenous peoples face. Therefore most of the plans are futile. For instance many indigenous people are registered in the villages but live in the cities, hoping to find better job opportunities and education. The government decided to compensate victims of the collapsed apartments. Since it is very difficult for those without household registration in the cities to prove that they actually are urban residents, many of them were ineligible for government compensation.

Even if they are fortunate enough to receive compensation, it is not a large enough sum to enable them to rebuild a house in their village or to buy a new apartment in the city. Due to the lack of properties, it is very difficult for indigenous people to get bank loans. Most banks do not consider the indigenous peoples' reserved lands eligible for a mortgage. Even if they are granted

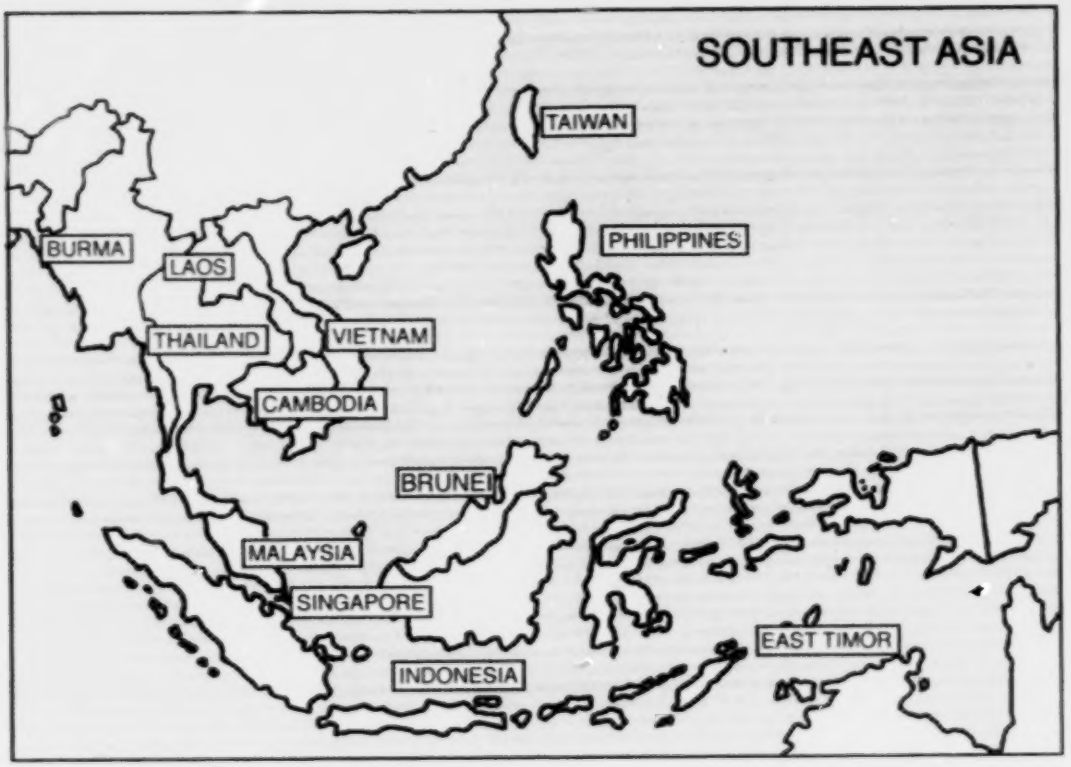
201

a loan, they find it hard to repay it because of unemployment and underemployment.

Lack of Grassroots Organising

Overall, the government has proved its inability to reconstruct indigenous people's livelihoods. The central government has been more occupied with issues related to non-indigenous people, although it has not achieved much in this sphere either. The Committee of Indigenous Peoples' Affairs (CIPA) under the Executive Yuan is supposedly the highest governmental agency for indigenous peoples' affairs. Yet since it is under the direct control of the central government, it tends to side with the government whenever indigenous people's interests are in conflict with the government. Since May the 20th 2000, Taiwan has had a new government. But it is difficult to tell whether the CIPA will now be more willing to defend indigenous people's rights. It is therefore important to keep a keen eye on how the new administration proceeds.

Indigenous people have their most direct dealings with local government agencies. However, most of these have the reputation of being unconcerned, and most indigenous people feel frustrated and hopeless when dealing with them. The earthquake disaster did indeed reveal the fact that the grassroots had been undermined on a long-term basis. With central and local government malfunctioning, it is crucial that indigenous people be organised at the grassroots level in order to carry out long-term reconstruction work. Although the indigenous peoples' movement had in the past contributed to improving the status of the indigenous peoples in Taiwan, it has been noted that at the grassroots level indigenous peoples have not been well organised. In most areas, reconstruction has not yet even started. Most indigenous peoples are now gradually beginning to realise that they can no longer rely on the government. But many of them do not know how to organise themselves. There are only a few cases where indigenous peoples have begun to organise themselves at the grassroots level. Hopefully, these cases will further encourage the indigenous movement in Taiwan.



Countries/Regions covered in this issue: Philippines, East Timor, Indonesia, Malaysia, Thailand, Cambodia, Burma, Nagalim

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SOUTHEAST ASIA

PHILIPPINES

Major National Developments

On February the 10th 2000, President Joseph Estrada issued Administrative Order 108 (AO 108) creating a Presidential Task Force on Indigenous Peoples (PTFIP). This new body is composed of seven individuals appointed by the President. Their task is to ensure the complete implementation of the Indigenous Peoples Rights Act (IPRA). One of the reasons cited for the creation of this body is the pending case questioning the constitutionality of the IPRA that is still to be resolved by the Supreme Court. The case, Estrada claims, has led to the delay in the delivery of basic services, especially those concerning the rights of indigenous peoples.

AO 108 directs members of the PTFIP to meet and submit its monthly report to the President, through the Office of the Presidential Assistant for Poverty Eradication (OPAPE), and to non-governmental organisations and peoples' organisations. The administrative order also directs the National Commission on Indigenous Peoples (NCIP) to provide the necessary secretariat services as well as technical assistance that the PTIFP may require. The PTIFP shall cease to exist as soon as the Supreme Court delivers its verdict on the constitutionality of the IPRA or whenever the president so orders.

Attorney David Dao-as, the Chairperson of the NCIP said that the PTFIP is actually a duplication of the NCIP. According to Dao-as, "what is very revealing is that there is no political will to implement IPRA on the part of the Palace Leadership". The implementation of the IPRA by the NCIP has been bogged down firstly by the squabble over its leadership and, secondly, by the non-release of funds for implementing its programme. Erap's creation of the PTFIP came as a big surprise to most indigenous peoples' organisations. The process surrounding the formation of this body was not in the least transparent. Additionally, its foundation is creating confusion between its role and the role of the NCIP.

Meanwhile, the violation of indigenous peoples' rights continues, with the further dispossession of indigenous peoples of their lands and resources which are being offered to multinational companies and business groups. Indigenous organisations like the Cordillera Peoples Alliance (CPA) are of the opinion that unless the Estrada administration change its policy guideline on

204

economic liberalisation, and unless this administration repeals existing laws which violate or fail to recognise indigenous peoples rights, then neither the PTFIP nor the NCIP can provide substantial solutions to the plight of indigenous peoples in the Philippines.

The Asian Indigenous Women's Network

1999 was a challenging year for the Asian Indigenous Women's Network (AIWN). The task it undertook to revitalise the network has been accomplished to a certain degree. Although no new organisations affiliated themselves to the AIWN, it focused its efforts on linking up with indigenous women's networks in other regions. This agenda was dictated by the fact that 1999 was the last year to prepare for Beijing+5 which will take place from the 5th to the 9th of June 2000 in New York. The experience of indigenous women who attended the first Preparatory Commission (PrepCom1) for the Beijng+5 Review in March 1999 showed the need for greater unity among indigenous women vis-à-vis both matters covered by the Review and those that it did not cover. This entails the recognition of collective rights as part of the human rights regime embodied in UN conventions and specifically the right of indigenous peoples to self-determination. This arises from the many problems being faced by indigenous peoples today, because nation states do not recognise their right to ancestral territory and to self-determination.

Building greater unity among indigenous women means more interactive forums for them at all levels - local, national, regional, and international. Following the March 1999 PrepCom1, the Indigenous Women's Caucus decided to keep in touch and plan for more of these encounters, using cyberspace, "snail mail", face-to-face meetings, or communications by fax. More concrete plans were made in Lima, Peru in December 1999 when CHIRAPAQ hosted the International Workshop of Indigenous Women Facing the New Millennium (see the chapter on Chile in this volume). A Steering Committee for the Beijing+5 Review was formed. It is composed of representatives from the networks in the different geographical regions. It made plans to raise funds to enable some representatives to attend Beijing+5, to exchange information, to compile a directory of indigenous women's organisations worldwide (an ongoing project), to contribute to the national and regional processes and to plan beyond Beijing+5. In order to achieve these aims, the participants endorsed Lea Nicholas-Mackenzie from the Assembly of First Nations of Canada to do the co-ordination work. This first co-ordinated effort is showing fruits with the planned Indigenous Women's Forum in New York intended to be a continuation of the efforts started in Lima. Several indigenous women's rep-

205

resentatives from the different geographical regions will be coming together for this. Indigenous women are seizing this opportunity to be able to interact further, build unity, and plan further actions. The Beijing+5 Review will not be the entire focus of the indigenous women's presence in New York. They are there mainly to demonstrate to both governments and intergovernmental bodies, as well as to NGOs and women's organisations, that indigenous women have a lot to say and do.

The continuing challenge for the AIWN is how to come up with a substantive picture of the situation of Asian indigenous women so that the public can appreciate the issues being raised. A lot has to be done to sensitise activist groups and NGOs to take on the cause of indigenous peoples in general, and indigenous women in particular. It is heart-warming to know that we also have advocates in some of the women's formations and activist groups in Asia. This entails the necessary documentation of the situation at the village level. An attempt had been made to use the scant data available to make an alternative report to the Conference of NGOs in Consultative Relationship with the United Nations (CONGO). The real need at the moment is in the areas of research and documentation. Unfortunately for us, language barriers to some extent limit our capacity to exchange information. This is where we need to network, so as to facilitate translation and data gathering. There is much information in local hands but because of a lack of translation, it is neither passed on nor is it processed to help with a regional analysis. There is also the recognition that some information is in the hands of academic and professional organisations in northern countries. In addition, governmental, inter-governmental and financial institutions also hold much information. I hope that this article reaches those people who are willing to share such information with or return it to the region. For more information about AIWN, our address is as follows:

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The Cordillera Region

Pending Abolition in the Cordillera Regional Bodies

The Cordillera Regional Assembly (CRA), the Cordillera Executive Board (CEB) and the Cordillera Bodong Administration (CBA), regional bodies

206

created by Executive Order 220, are now facing possible abolition. This is as a result of the non-allocation of funds by Congress to these bodies in the proposed national budget that is due to be approved in March 2000. In the proposal filed, only the CEB was provided with a budget for winding up. Such drastic action by Congress was the result of these bodies being publicly perceived to be not performing, a charge that was compounded by accusations of corruption and internal bickering. These government bodies were also blamed for the resounding rejection of all Organic Acts for the creation of a Cordillera Autonomous Region in three different referenda held in the past years. Officials from these bodies are set to raise their side of the issue in the Supreme Court.

These regional bodies were created in 1987 by the then president Cory Aquino in order to facilitate the setting up of the Cordillera Autonomous Region. Upon its formation, the Cordillera Peoples Alliance campaigned for its abolition on the grounds of political misrepresentation. The indigenous Cordillera Peoples Alliance (CPA) also considered those appointed to these political structures to be self-serving leaders.

Political Killings

On June the 4th 1999, Rey Pedronio, a member of the Baguio Media and Public Relations Office of the Cordillera Regional Assembly (CRA) was shot in front of his wife. Reports alleged that it was a calculated move by the Cordillera Peoples' Liberation Army (CPLA) to silence him. Pedronio was at that time intervening in a land dispute involving CPLA elements. The arrest of a CPLA leader confirmed the public's belief that they were involved in this cold-blooded murder.

On December the 31st, at the dawn of the new millenuim, Fr. Conrado Balweg, the infamous leader and founder of the Cordillera Peoples Liberation Army (CPLA), was killed by members of the New Peoples Army (NPA) in his hometown of Bangilo, Malibcong Abra. According to the NPA's press releases, Conrado Balweg deserved capital punishment because of a series of crimes he committed as head of the CPLA. The list of crimes they claimed Conrado Balweg committed include the abduction and subsequent murder of Ama Daniel Ngayaan, a respected Kalinga leader, and of Romy Gardo, a CPA organiser in Abra. Fr. Conrado Balweg was a former spokesperson of the New People's Army but broke away from them to form the CPLA. He then entered into a peace pact with 1987 President Cory Aquino.

The wife and children of Conrado Balweg and a few government officials immediately condemned this incident. The military filed a case in court nam-

207

ing nine NPA members as the perpetrators of the crime. Meanwhile, the families of the victims of Conrado Balweg said that they believed that this revolutionary act had delivered long awaited justice for their dead kinfolk. Daniel Ngayaan's daughter openly echoed this sentiment when she was interviewed by members of the media.

Mining

Last year, on the 26th of July 1999, at the height of heavy rains, 14 hectares of Barangay Colalo, in the gold-rich town of Mankayan, Benguet province, collapsed. The entire Colalo Elementary School along with four residential houses, mango trees and a few swidden farms were swallowed up by the ground. A resident named Pablo Gomez, who volunteered to assist the teachers evacuate their things from the school building, was also swallowed up. His body was never found.

Residents of Colalo attributed this disaster to the construction of the mine tailings dam of the Lepanto Consolidated Mining Company (LCMCo), located just below the area which collapsed. Elders claimed that the tailings dam which was constructed in 1990 had since been blocking the flow of a nearby creek and this had caused the underground accumulation of water. Over time, elders went on to explain, the accumulated water had softened the land weakening the soil underneath until it collapsed. They also believed that the construction of a road at the foot of the collapsed area and the continuing quarrying activities within the area itself, had resulted in the weakening of the base support of the mountain. This analysis was validated by geologists from the National Institute of Geology of the University of the Philippines. This group of experts conducted an independent investigation upon the request of Congressman Cosalan who filed a House Resolution No. 1057 directing an investigation into the disaster. LCMCo described the incident as an "act of God", declaring it to be a purely natural disaster. The demand of the Kankanaey people of Colalo for just compensation has been consistently denied by the mining giant.

In a separate incident, three leaders of Barangay Bulalacao, also in Mankayan, were slapped with criminal and civil charges for opposing the mining company's Victoria Gold Project. The company's lawyers filed a suit for the obstruction of LCMCo's operation after the residents barricaded the latest exploration site, in an attempt to prevent the ingress of drilling equipment into their community in October 1999. The Kankanaey farmers opposing the project believe that the exploration and drilling activities of LCMCo will drain their water source. The drilling site is located beside a creek which

supplies irrigation to their vegetable farms. People claim that since the 1970s drilling activities in their community have drained their water supply. LCMCo has already created more than a hundred holes in the Barangay since the 70s. Meanwhile, Environmental Management Bureau of the Department of Environment and Natural Resources' records shows that the company had failed to secure an Environmental Compliance Certificate for its Victoria Gold Project in Bulalacao.

The three Bulalacao leaders have posted bail and together with hundreds of residents of Bulalaco, they have vowed to continue opposing the drilling and mining activities of LCMCo. The drilling has been temporarily stopped pending a court decision. This is the second time Lepanto has filed a suit against protesting residents. The first suit, for obstructing the company's operations, was filed against eight residents in November 1998.

The outcome of these cases has far reaching implications for the ongoing protest activities against mining not only in the Cordillera but also in the country as a whole. In both cases LCMCo invoked provisions in the Mining Act of 1995 claiming the act had been violated by protesting residents. This law provides for the unhampered operation of approved mining applications. With the ongoing implementation of this law, more protest actions by the people will certainly be met with legal suits. This will put the people on a legally defensive footing when they try to assert their prior and collective right over their land and resources.

As of November 1999, more than 591,901 hectares of the Cordillera region's total of 1.8 million hectares have been covered by different mining applications that are already in the various stages of the approval process. Meanwhile, most of the affected communities have declared their opposition to large-scale mining.

The San Roque Multi-Purpose Dam

In spite of stiff opposition from affected Ibaloi communities in Itogon, Benguet, the construction of the San Roque Multi-Purpose Dam is still ongoing. John Lockwood, the San Roque Power Corporation's Resident Manager, said that 38% of the project has already been completed. He made it clear that this percentage refers to the amount of budget spent and to the building of support facilities and infrastructure required by the dam project.

As of February 2000, only four per cent of the dam construction itself has been completed. In spite of the persistence of the project's proponents, the people's protest has been gaining ground even within government circles. The Provincial Board of Benguet announced a resolution supporting the po-

sition of the Shalupirip Santahnay Indigenous Peoples Movement (SSIPM), opposing the dam project because of its negative socio-cultural impacts on affected Ibaloi communities. Congressman Ronaldo Cosalan of Benguet is also lobbying against the release of loans pending the implementation of certain conditions designed to address the socio-cultural and environmental impacts of the project. Likewise, Senator Gregorio Honasan has filed a bill for an independent review on the structural design of the dam because of the possible environmental disaster it may cause.

Honasan's Bill was based on the findings of a technical review of the environmental impact of the SRDP. This study was jointly commissioned by the International Rivers Network, the Cordillera Peoples Alliance and the SSIPM and was undertaken by technical experts based in the United States in July 1999. The study found serious deficiencies in the Environmental Impact Study of the National Power Corporation (NPC). It also confirmed that such an enormous water reservoir might cause environmental disasters, such as massive siltation, water pollution, flooding and potentially dangerous seismic reactions.

The San Roque Dam Project is expected to be finished by 2002 and shall be operational by 2004. The dam component will cost US$1.1 billion and will generate 375 megawatts of hydropower. The 17 kilometre long, 1.2 kilometre wide and 290 metre tall dam will be the second largest in Asia and the ninth largest in the world. The money needed to build the dam has been loaned by the Japanese Bank for International Co-operation (the former Japanese Export-Import Bank). This dam will inundate ancestral lands in Itogon, Benguet which will affect around 20,000 Ibaloi people.

The Indigenous Women's Movement in the Cordillera

Throughout 1999 and 2000, the indigenous women's movement in the Cordillera has been gaining momentum, with an increasing number of women actively participating in the campaign for the defence of land, life and resources. In February 1999, in Mainit, Bontoc, women were at the forefront of the struggle to drive away a team of surveyors from Mainit Resources International Incorporated who were planning to mine their village. The women's organisation in Mainit also hosted the celebration of Cordillera Day in 1999. Their ability to do so is indicative of their growing strength.

In a nearby community, the women of Guinaang, Bontoc, together with other residents, marched to the military detachment in their community and presented a petition demanding the withdrawal of the Armed Forces of the Philippines from their village. They cited the abusive behaviour of troopers,

the sexual harassment of women and frequent drunkenness as reasons for their request. This has prompted the military to leave the area. In September 1999, in Tinglayan, Kalinga, the women of Tulgao submitted a petition against the plan to build a geothermal plant in their area. The women gathered together and confronted the project's proponents with their protest action. This prompted the project's proponents to temporarily abandon the plan.

In the provinces of Abra, Kalinga and Mountain Province, as well as in the Metro Baguio area of Benguet, women had been able to launch their provincial women's federations. All have allied themselves with Innabuyog, the regional alliance of indigenous women in the Cordillera. They plan to hold a Regional Assembly from March the 6th to March the 8th 2000, whose slogan will be, "Strengthen and Consolidate the Women's Movement in the Cordillera. Defend Land, Life and Resources!"

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Palawan Island
In the year 1999-2000 Palawan, the Philippines' "last frontier", finds itself facing a crucial watershed. While CADC (Certificates for Ancestral Domain Claims) applications under the IPRA (Indigenous Peoples Right Act) are now frozen, local NGOs have yet to agree on a common strategy to secure indigenous lands.

The completion of the "circumferential" road that will encircle and cross the entire province of Palawan before the end of the year 2000, is a central government aim. The main stretch of road was opened in 1992 and it is now being enlarged and completed. Rather than protect the existing roadside forest, the local government of Rizal Municipality has encouraged the unregulated settlement of migrants. Portions of forestland crossed by the national road were also released to the Federation of Land Reform Farmers during the previous administration of Mayor Nicola Montaño. According to some informants, more than 40 hectares of good forest in Punta Baja were released to one of the politicians running for Mayor in the 1998 elections.

A recent field survey carried out by the local indigenous organisation Bangsa Palawan, Philippines (BPP), in collaboration with the UK based Forest Peoples Programme, revealed that the road also passes through steep and broken terrain often across or alongside streams and channels. It therefore

211

causes a substantial amount of soil deposition and sedimentation in rivers and mangrove swamps during the construction phase. This is mainly due to the limited budget available for road construction, which leads to economies being made at the expense of the environment. Many of the indigenous communities the BPP investigation met were very concerned about the future impact of the road. Some households are even planning to sell their agricultural improvements and vacate the area before the road reaches them. The situation encountered suggests that up until now, the road contractors have had no Environmental Compliance Certificate (ECC) as required by the DENR Administrative Order no. 96-37. Employees of the Narra district office of the Department of Public Works and Highways (DPWH), and the public affairs information officer of the Province, told the BPP members that existing environmental regulations are often ignored because it takes too long to obtain an Environmental Compliance Certificate from the DENR. The same can be said for gravel quarrying within the Puerto Princesa and Roax municipalities. Gravel for the expansion and paving of the northern stretch of the national road is presently being extracted in commercial quantities. Within the traditional territory of Batak communities, the heavy machinery of the Weing and Hanjin companies is seriously damaging the riverbeds of Tanabag and Mauyon Rivers.

The road is also threatening valuable mangrove sites which are an important source of livelihood for the local Pälawan communities, especially in Barangay Panalingaan.

La Niña ravaged Palawan Island between January and April 1999. According to indigenous people, it caused even more severe consequences than El Niño. Because of excessive rain, indigenous swiddeners were able to burn only small portions of their cleared land. It would appear that the reduction of agricultural activities (which are mainly managed by women) is having a negative impact on indigenous gender roles. In fact, to compensate for the loss of agriculture, the people sought to engage in activities normally controlled and organised by men only. As a result, the position of indigenous women as bearers of food sources tends to decline. The transition from El Niño to La Niña was also characterised by the outbreak of intestinal diseases and influenza, which exacted a heavy toll on the indigenous infant population.

After the DENR suspension of all pending applications for ancestral land claims, indigenous land security is now under serious threat. In Barangay Bulalacao (in the Municipality of Bataraza), the Pälawan community is being

intimidated in an attempt to make them vacate their land, which was granted to them through a municipal resolution in 1967. Their land is now being claimed by the locally influential Narrazid family, which has strong connections to the government authorities of Bataraza. The community is being threatened to pay 30,000 pesos per family if they want to continue to live on their plot of land. Otherwise they are being told they must vacate the area. At present the land of the Pälawan communities of Maasin, Mambalot and Ipilan (in the Municipality of Brookes point) is also being threatened by the Celestial Mining Exploration Corporation's operations.

The government' s package for tenurial security and sustainable forest management is far from being acceptable. There is, in fact, a resurgence of repressive forest policies reintroduced under apparently benevolent rubrics and acronyms such as CBFM (Community Based Forest Management) agreements. In reality such policies are not culturally acceptable and cannot provide an adequate amount of staple food. CBFM policy violates indigenous peoples' rights to their ancestral land, and it perpetrates government control over indigenous peoples' livelihoods. In fact with CBFM, indigenous peoples' role in their own territory is rather reduced to that of stewards of public land. For instance, the agreement between the Provincial Environment and Natural Resources Office (PENRO) and the Association of Batak of Tina, specifies that the indigenous beneficiaries should "immediately assume responsibility for the protection of the entire forestland within the CBFM area against illegal logging and other unauthorised extraction of forest products, slash and burn agriculture (*kaingin*), forest and grassland fires, and other forms of forest destruction, and assist DENR in the prosecution of violators of forestry and environmental laws". Clearly, the contract requires that the Batak themselves guard their area from their own practices, such as swidden cultivation.

In 1999, as a result of the overall uncertainty over land tenure, an increasing number of indigenous peoples have 'sold' their land to Filipino migrants. According to several Barangay officials, land is not actually being sold to migrants in a straightforward commercial way. Instead, they argue that indigenous occupants who first developed the land (e.g., through clearing forest, planting of perennial crops, etc.) are simply transferring the right to continue agricultural development on the land to migrants. This "transfer of rights" is acknowledged by the Barangay chief in the presence of both parties (the indigenous sellers and the migrant buyers). This is later certified by the Municipal Mayor. Much exploitation occurs during the selling of "land rights".

The asking price for one hectare of land is ridiculously low, averaging between 2000 to 3000 pesos (c.US$53 to $79).

At present, even the legal recognition of indigenous claims to their ancestral domain would be insufficient to prevent the exhaustion of resources in Palawan Island. This is because the causal agents of forest exploitation, coral reefs destruction and other forms of environmental degradation in Palawan can no longer be attributed to one single source. Thus stopping 'outsiders' from exploiting local resources would not necessarily stop the locals from overexploiting their own resource base. Because of increasing food deprivation, even indigenous people are encouraged to adopt destructive technologies (e.g., illegal fishing devices).

On the one hand, the new social and economic transformation taking place in Palawan requires a switch from the conventional top down treatment of environmental problems to the adoption of a 'micro level' approach, and thus to the diversity and creativity of indigenous approaches to the use of resources. On the other hand, local NGOs should come up with a more unitary policy as soon as possible, and define where they stand on questions of power, political alliances, and indigenous rights.

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Mindanao

They had hardly recovered from the long drought and subsequent rat and locust invasions caused by El Niño in 1998, when the Menuvû indigenous people of Central Mindanao were drawn into the violent conflict between the Philippine Army and the Moro Islamic Liberation Front (MILF).

The conflict began on the 27th of October 1999 when the combined elements of the Philippine Army Eighth Infantry Battalion, the Civilian Armed Forces Geographical Unit (CAFGU) and the Menuvû Civilian Volunteer Organisation (CVO) attacked the MILF fortified camps in Mekebimban. The intense gun battle lasted three days and cost three Menuvû lives. In what was an apparent reprisal, the MILF desecrated the dead bodies by inserting sweet potatoes in their mouths, plucking their eyes out and filling them with ground corn. A week later the fanatical group called the Christian Liberation Army (CLA) fired at Muslim farmers in Keyumangen, a village adjacent to Kilavew. And a couple of days after the CLA attack, a hundred MILF guerrillas armed with rocket-propelled grenades and high power firearms took Tehimtim without any resistance from the resident CVOs. "We were told at gunpoint to dig foxholes and tear down our houses to use as covering materials for their trenches", recounted Timuèy Ngawil Limpid, the Menuvû leader who was taken hostage but who later managed to escape.

Since fighting broke out between government troops and the MILF in Central Mindanao, about 500 Menuvû families have lost their homes and farms. Most of the evacuees sheltered temporarily at evacuation centres in Liliongan, Kimaadsil, Kibudtungan, Aroman and Carmen Poblacion. Scarcity of food has been adding to the difficulty of the Menuvû evacuees. "We are already happy if the DSWD (Department of Social Welfare and Development) will distribute five kilos of rice per family once every two weeks", said Eminta Detuwata, a widow with five children and an evacuee from another

affected village called Pinementangan. "But now it seems we are already forgotten," she continued. To make ends meet Eminta and other women look for paid labour in the Bisayan (Christian settlers') neighbourhood to earn enough for a day's meal.

The lack of food forced the evacuees to visit their abandoned villages to pick some cassava and bananas or to hunt wild animals. Two Menuvû hunters, Puyat Lipetuwan, 37, and Bebot Empalid, 35, were tortured and killed by suspected Moro rebels. Gun battles, bombings, evacuations, and bizarre killings were not new to the people of Cotabato, especially those in Carmen. In the late 1960s, the Moro communities experienced massacres and other killings mostly at the hands of the Philippine Constabulary. In the early part of 1968, the infamous Menili massacre in Carmen, Cotabato occurred, killing 70 Moro women, children and old people inside their mosque. The massacre was carried out by a military backed anti-Moro death squad called Ilaga and it stirred up the Moros' deep-rooted hatred of the Christians.

Evacuation center for Menuvû evacuees in Makataktak, Aroman (Foto: Christian Erni).

In September 1996 the Organisation of Islamic Conference (OIC) brokered a peace accord between the Moro National Liberation Front (MNLF) and the Government of the Republic of the Philippines (GRP). The MILF was then a faction of the MNLF, and its leader and former Vice-Chairman of the MNLF, Salamat Hashim, fumed in the sidelines while government representatives negotiated with MNLF leader Misuari. Paid too little attention by the authorities, the MILF amassed arms, recruited men, and fortified its camps in the hinterlands of the Maguindanao, Lanao, Sarangani and Cotabato provinces.

Less than a year after the signing of the GRP-MNLF peace agreement, the MILF is no longer content with sitting on the sidelines. It demanded a central role in resolving the so-called Moro problem in Mindanao. In February 1997 the government began talks with the rebel group. But in the ensuing months, the MILF fought bloody battles with government troops in different parts of Mindanao. The MILF expanded its claim to territory and exacts revolutionary taxes, including some from indigenous people's villages (generally referred to as Lumad in Mindanao). Farmland abandoned by the Lumad and by Christians has been taken over by Moro farmers. This has happened in Vekbaken, Kilavew and Pegelungan in Carmen, Cotabato and Fenangket along the boundaries of the Provinces of Sultan Kudarat and Maguindanao of the Dulangan Manobo and Lambangian tribes.

At dawn on April the 27th 2000, the MILF and the GRP peace panel representatives signed a preliminary peace agreement. But less than seven hours later, government troops attacked guerrilla installations along the Narciso Ramos Highway near Camp Abubakre As Siddique, the MILF's main nerve centre. Three days after the attack, the MILF central committee issued a unilateral suspension of the peace talks. At the height of the military offensive aimed at clearing the highway of Moro rebels, some 500 of the MILF's forces stationed themselves along the road. In less than three weeks of intense fighting, 101 military personnel were killed in action with 21 others missing. The rebel side incurred undisclosed casualties, and 41,000 civilians were displaced from their homes with millions of pesos worth of property being damaged.

NGOs, POs and church leaders urged the contending parties to cease hostilities and to return to the negotiating table. On the 30th of May, the MILF agreed to resume peace talks with the government. While both sides were starting talks at a hotel in Cotabato City, a contingent of government troopers stormed and overran Camp Bushra in Lanao del Sur. The military offensive against MILF camps will not affect the talks according to Cotabato congressman, Anthony Dequiña. "We are only doing our job in accordance with the

217

mandate of the constitution, protecting civilians from lawless elements", said the congressman.

The Mindanao problem is further complicated by the Abu Sayyaf Group, an extremist Islamic faction that is sowing terror in Basilan and Jolo by killing or kidnapping hapless civilians in the name of Islam. (Like the 19 tourists and two Filipinos vacationing in a diving resort in Sipada Island off Sabah, Malaysia on April the 23rd this year). Among its other demands, the Abu Sayyaf has called for the creation of a separate Islamic state in Mindanao, the creation of a Sabah Commission to look into the situation of Moro refugees in Sabah, Malaysia and the setting up of livelihood projects in Southern Mindanao especially in Basilan and Jolo. So far the government is sticking to its policy of 'finishing off' the MILF and the terrorist group using military means. However mounting international pressure on the Philippine government to enter into negotiations, has made it reconsider its militaristic position.

EAST TIMOR

East Timor was a Portuguese colony for more than 400 years. In 1975 it was invaded by Indonesia, which proclaimed East Timor Indonesia's 27th province the following year. The Indonesian occupation was brutal. At least 200,000 people - almost one-third of the population before the invasion - lost their lives as a result of war, starvation or disease. It was also illegal, never being recognised by the United Nations.

In 1999 Indonesia finally accepted a referendum about the future status of East Timor, but at the same time it sponsored more violence in the territory. Following the referendum, in which the East Timorese voted overwhelmingly in favour of independence, an international military forced arrived, and Indonesia had to end its occupation.

During February 2000 this force was gradually replaced by a regular UN peacekeeping force consisting of 9000 troops, military observers and civilians from 23 countries. At the moment the former Portuguese colony is under UN administration while the foundations for a free East Timor are being laid. Formal independence is expected by 2001 or 2002.

Autonomy or Independence?

On the 27th of January 1999 the Indonesian government announced that it was prepared to give the people of East Timor two choices, autonomy within the Indonesian state or independence. It was the first time that the Jakarta gov-

ernment mentioned the possibility of letting East Timor go. Therefore it was an important step forward. But it was still unclear just how the East Timorese were supposed to express their opinion, because Indonesia still refused to consider a referendum on the issue.

About the same time a new form of violence appeared in East Timor when pro-Indonesian militias began to terrorise the population, especially those who were in favour of independence. The militias were armed, funded, organised and trained by the Indonesian army (TNI).

Indonesian authorities were following a two-track policy. One group around President Habibie was prepared to let East Timor go because it was an international embarrassment to Indonesia, while another group around Defence Minister Wiranto wanted to hold on to East Timor for several reasons. Firstly many generals had economic interests in East Timor. Secondly it would be humiliating for Indonesia to withdraw from East Timor. Thirdly a free East Timor might encourage other areas ruled by Indonesia to struggle for independence (e.g., Aceh or West Papua).

The New York Agreement

On the 5th of May 1999 Indonesia and Portugal concluded an agreement in New York. Under UN auspices the two states had been talking about East Timor for many years, but negotiations had never produced any substantial results. Now Indonesia and Portugal agreed that the people of East Timor should be consulted about their future status.

It was the first time that Indonesia accepted a referendum on the issue. Therefore it was an important step forward. But there was also a negative side to the New York agreement - Indonesia was to be responsible for security before and after the referendum. Human rights organisations warned against this since, they argued, the Indonesian army had caused death and destruction in East Timor for more than 20 years. When the agreement was signed, there had already been many cases of violence - the massacre at the Liquica Church complex, the attack on the home of Manuel Carrascalao, etc. - and no indication that the army would protect law and order. How could anyone believe that this army would respect the result of the referendum if the East Timorese were going to vote against Indonesia?

Clearly this was not an ideal arrangement, but Indonesia insisted, and at that time no Western government was prepared to pressure Indonesia any further on this point. So Portugal and the UN accepted it, because it seemed impossible to get a better deal. At first, the ballot was scheduled to take place in early August. Later it was postponed until the 30th of August.

219

The UN established the United Nations Assistance Mission in East Timor (UNAMET) to organise the referendum. UNAMET staff were unarmed civilians, who were unable to stop the growing violence. They were not even able to defend themselves, something which turned out to be fatal when the situation exploded in early September.

The Referendum

In spite of the growing violence UNAMET was able to register voters, conduct the consultation, collect the ballot papers and count all the votes. But it was unable to stay in East Timor after the vote. The referendum took place on the 30th of August 1999. It was a relatively peaceful day, at least according to the standards then prevailing in the territory, and the result was announced five days later. It was impressive - 98.6% of the registered voters cast their ballots, and 78.5% of them voted for independence. Given the fact that this took place in an atmosphere of violence, with pro-Indonesian militias trying to intimidate people to vote for Indonesia, the result was even more impressive.

Just one day after the ballot, the militias recommenced their actions, presumably fearing that the result would go against them. They had good reason to be afraid, and when the result was announced on the 4th of September, things got even worse, with the militias terrorising the population and destroying property on an unprecedented scale. The Indonesian army could not - or would not - do anything to stop them. Most foreigners began to leave the territory for fear of their lives, including reporters, aid workers and even UNAMET, which had promised to remain in East Timor after the vote no matter what the outcome would be.

In many ways the situation was similar to the time just before the Indonesian invasion in 1975. It seemed as if the Indonesian authorities did not want to have any foreign witnesses present when they were going to settle their score with the East Timorese who had not voted as they wished. Most buildings were destroyed, especially in the capital Dili. Some 200,000 people fled to the mountains in order to escape the terror, while some 250,000 people were forcibly driven across the border to Indonesian West Timor and other islands where they ended up in camps controlled by militias or the TNI. According to UN figures, the TNI-militia campaign drove an estimated 750,000 of East Timor's 880,000 people from their homes. A huge displacement in such a short period of time.[1]

The logic of the militias and the Indonesian military seemed to be that if they could not have East Timor, then nobody else would. Perhaps it was also

meant as a warning to other Indonesian ruled areas that wanted to secede from Indonesia, even though East Timor had never been a part of the Dutch colonial system, instead being under Portugal's rule. The East Timorese resistance movement therefore was not a secessionist movement.

The End of the Indonesian Occupation

These events finally attracted the attention of the international community. For a brief moment in history, during August and September 1999, East Timor was in the headlines of the global media - after having been largely ignored for decades. US President Bill Clinton urged Indonesia to end the violence in East Timor, and Australia offered to send in troops to do the job. But Indonesia refused to allow foreign troops into the territory. On the 11th of September 1999 the US and the European Union announced that they were suspending all civilian and military assistance to Indonesia. Just one day later President Habibie agreed to accept an international military force in East Timor.

On the 15th of September 1999 the UN Security Council adopted a resolution that authorised an international military force (INTERFET) to take charge of security in East Timor. The force was led by Australia and was composed of troops from 16 mainly Asian countries. The force, which grew to 11,000 troops, began arriving in Dili five days after the Security Council vote. As INTERFET moved in, the Indonesian military began pulling out of the territory.

On the 20th of October 1999 the Indonesian National Assembly ratified the referendum, thus clearing the way for East Timor's freedom. Eleven days later the last Indonesian troops left the territory, thus ending almost 24 years of illegal occupation. During February 2000 INTERFET was gradually replaced by a regular UN peacekeeping force led by Lieutenant General Jaime de los Santos of the Philippines.

On the 25th of October 1999 the UN Security Council adopted a resolution setting up the United Nations Transitional Administration in East Timor (UNTAET) to prepare the former Portuguese colony for independence. UNTAET formed a National Consultative Council consisting of 15 members which is consulted on all major decisions. The composition of the council is supposed to reflect the result of the referendum. Therefore the pro-independence movement (CNRT) has seven seats, the pro-autonomy movement three, the influential Catholic Church one and UNTAET four.

The Problems of the Future

After a long and costly struggle East Timor is free. But even though Indonesia has withdrawn from the territory, the problems are far from over. In a letter dated December 1999, the US solidarity organisation East Timor Action Network pointed out four areas where the new nation faced serious problems:

- "More than 100,000 East Timorese are still detained in West Timor and other parts of Indonesia, where they were taken at gunpoint after the vote. Hundreds of children have died in the militia-controlled camps. The militia must be disarmed and disbanded and people allowed to return home.
- "September's vengeance destroyed most necessities - food, water, shelter, medical care - in East Timor. Nearly every town and the great majority of homes must be rebuilt. People will require international aid for many months. Humanitarian agencies are now providing assistance, but need to work more closely with local leaders.
- "The East Timorese must design their new nation - its government, agriculture, education, laws, economy, infrastructure - overcoming the legacy of five centuries of occupation and critically evaluating models proposed from outside.
- "The East Timorese must cope with the UN transitional administration and international aid agencies and ensure that they emerge from the current well-intended occupation with their society, culture and independence intact."

Law and Order

Members of the East Timor independence movement (CNRT) have always appealed to the international system of law and order, even though this system has not done much for them. In fact the United Nations let them down twice, the first time when Indonesia invaded the territory in 1975, the second time in connection with the referendum in August 1999.

The CNRT fought an armed struggle against Indonesia in East Timor which was legal because it was a clear case of self-defence. But it never took the armed struggle to Indonesia or other parts of the world. It never bombed supermarkets in Jakarta, nor did it hijack Indonesian aeroplanes. This legalistic approach is highly commendable, but also one reason why for many years few people paid attention to their cause.

The UN intervention in September 1999 was welcomed by many people from all over the world, including the CNRT. It was also praised in the media. But most media reports were quite misleading, because they pretended that the conflict was new, when in fact it was almost 25 years old. Most media reports failed to point out three important historical facts.

- The UN had done virtually nothing to stop the aggression back in 1975.
- The Western powers had been actively supporting the aggressor since 1975.
- The Western media had ignored the conflict until recently.

The West's Responsibility

It was understandable that the UN intervention was welcomed. But there were also some critical and sceptical voices raised, voices that drew attention to the fact that Western governments bear part of the responsibility for what happened in East Timor, since they had supported the Suharto regime for years and had only recently begun to distance themselves from Indonesia

A case in point is raised by the US scholar Noam Chomsky who has written and talked about East Timor for many years. In a comment dated the 12th of October 1999 he emphasised the fact that the US has a grave responsibility for what has happened in East Timor:

> *"There was no need to threaten bombing or even sanctions. It would have sufficed for the US and its allies to withdraw active participation and inform their associates in the Indonesian military command that the atrocities must be terminated and the territory granted the right of self-determination, as upheld by the United Nations and the international court of justice. We cannot undo the past, but should at least be willing to recognise what we have done, and face the moral responsibility of saving the remnants and providing reparations - a small gesture of compensation for terrible crimes."*

Chomsky noted that the US tried to undermine the government of Indonesia's first president (Sukarno) but supported that of the second president (Suharto) who came to power in 1965:

> *"The rich resources of the archipelago, and its critical strategic location, guaranteed it a central role in US global planning. These factors lie behind US efforts 40 years ago to dismantle Indonesia, perceived*

as too independent and too democratic - even permitting participation of the poor peasants. These factors account for western support for the regime of killers and torturers who emerged from the 1965 coup."[2]

During the period 1992 to 1998, the US pursued an ambiguous policy with regard to Indonesia and East Timor. While Congress made cutbacks in weapons shipments and military aid, the Pentagon repeatedly told the TNI that they would like to resume normal relations.

And Grant and Duval gave a vivid example of the opportunistic attitude of some Western governments:

"Britain suspended the sale of Hawk jet fighters which were already to be sent to Indonesia, as the sending of these weapons of war at this moment in time would provoke a tremendous scandal. This was an empty gesture and does not alter the fact that for decades Britain, the United States and Australia have been arming the bloody dictatorship of Suharto with weapons that have been used against the people of East Timor. However, on the 20th of September news filtered out from the British Ministry of Defence that the Hawk jet fighters would be delivered anyway."

Let Down by the United Nations

In a document written by Ted Grant and Jean Duval and posted on the internet on the 20th of September 1999 they criticised the CNRT for putting too much faith in the UN:

"But the United Nations, which is in reality completely subordinated to the United States, has already shown a cynical indifference to the fate of East Timor for a period of almost 24 years. To imagine that this imperialist forum can now change its spots is naive in the extreme."

Presumably, the phrase "imperialist forum" is a reference to Great Britain, France and other (former) colonial powers. But even socialist countries have been supporting Indonesia. In fact, during Security Council discussions in 1999, China was Indonesia's best friend, and it played a key role in limiting UN activity.

Grant and Duval were not at all impressed by the UN's role:

"The conduct of the so-called United Nations since the referendum has been revolting in the extreme. The presence of unarmed observers was a farce which merely played the role of fooling the East Timorese people into a false sense of security and disarming them in the face of armed reaction."

"All along the UN has been acting out a disgusting farce, pretending to intervene on behalf of the East Timorese, shedding crocodile tears and making hypocritical appeals to the Indonesian army to restore order, when everyone knew that this same army was behind the militias. And now this self-same UN wants to pose before the world as the saviours of East Timor! What disgusting hypocrisy!"[3]

Human Rights

One issue which has generated much discussion is the question of the violation of human rights in East Timor. What happened? Who was responsible? How can those responsible be brought to account? Who will deal with this issue? East Timor itself, Indonesia or an international tribunal set up by the UN? In some respects, the discussion of these issues is fundamentally flawed because it only covers what happened during 1999. What happened between 1975 and 1998 seems to be completely forgotten, even though the number of crimes was much greater in that period.

A case in point is the report by Indonesia's Human Rights Commission (KOMNASHAM) which covers events in East Timor from January 1999 until the Parliament ruling of October 1999 that ratified the results of the popular consultation. An executive summary of the full report was published in Jakarta on the 31st of January 2000.

Part II of the summary states:

"First, there was a strong relationship and linkage between the TNI, Polri, government bureaucracy and the militias. Second, the violence that occurred in East Timor beginning after the announcement of the offer of two options until the period after the results of the popular consultation were announced was not caused by a civil war but was the result of a systematic campaign of violence."

Part III presents six types of crimes committed by the militias: systematic and mass murders; torture and ill treatment; enforced disappearances; gender-

J - 225

based violence; forced displacement of civilians; and a scorched-earth campaign.

Part IV documents 10 primary cases committed during the period from January 1999 to October 1999: the massacre at the Liquica Church complex; the murder of Kailaco villagers; the attack on the home of Manuel Carrascalao; the attack on the Dili Diocese; the attack on the home of Bishop Belo; the massive destruction and murders in Maliana; the massacre in the Suai Church complex; the murder of a Dutch journalist; the killing of religious figures in Los Palos; and violence against women.[4]

KOMNASHAM was established by the Indonesian government in 1993, following a resolution adopted by the UN Human Rights Commission in Geneva. During the Suharto period it was severely constrained, but has been growing more independent since then. It can investigate and make recommendations, but has no powers to prosecute. KOMNASHAM has produced an important report, although it omits all events between April and August. But will the Indonesian authorities act on its recommendations?

During February 2000 discussions on this issue centred around General Wiranto who was Minister of Defence under Habibie and who became Minister of Security under his successor Abdurrahman Wahid (Gus Dur). The president told the general to resign, but he refused, saying he was innocent. Finally, after many days of statements and counter-statements, the general resigned. President Wahid said Wiranto should be tried in a court of law, adding that he should be pardoned if found guilty. Is this really justice?

On the 1st of March 2000 Wahid made an official visit to East Timor where he apologised for 24 years of Indonesian occupation. He laid a floral wreath at the Santa Cruz cemetery where in November 1991 Indonesian troops killed more than 200 unarmed demonstrators. He also sprinkled flower petals at a nearby cemetery for Indonesian troops who lost their lives during and after the 1975 invasion of the territory. David Ximenes of the CNRT said the resistance movement accepted his apology, but he added that the international community had the right to say that those responsible must be censured for their actions.

How Did the Conflict Come to an End?

Indonesia's withdrawal from East Timor and its ratification of the referendum marked the end of the East Timor conflict, *de facto* and *de jure*. But before we close the book on this conflict, it is worth asking how this was possible.

One interpretation would be that it is because Western governments are serious when they talk about freedom and democracy, human rights and respect for international law. When things got out of hand in East Timor they acted swiftly, sending off an international military force which arrived just three weeks after the referendum. According to this explanation, the Western powers came to the rescue, and the Western media reported the whole thing in great detail.

Western governments and the media promote this interpretation, presumably because it presents them in a positive light. Yet it is contradicted by historical facts. If the Western governments really wanted to help East Timor, they could and should have done so back in 1975. They did not. The UN adopted many resolutions on East Timor - the Security Council, the General Assembly and the Human Rights Commission all did so - but until 1999 the organisation did virtually nothing to enforce these resolutions. The US blocked any serious action by the UN. Indonesia was considered more important than East Timor. Economic and strategic interests came before lofty ideals such as freedom and democracy, human rights and respect for international law.

If the media really wanted to help East Timor, they could and should have covered the issue from the beginning instead of remaining silent for many years. East Timor was isolated from the outside world by Indonesia. But there was always information available to those who wanted to know what was happening, especially since 1990. Activists all over the world tried to get the media to cover the case, but they were nearly always turned away. East Timor was not important, had no news value, and anyway it was a lost cause, so why bother?

A second and more realistic interpretation begins with the economic crisis in Southeast Asia which hit Indonesia particularly hard. The crisis began in mid-1997, weakened Suharto's position and led to his downfall in May 1998. When Suharto lost control of the situation, he lost the international protection he had enjoyed since coming to power in 1965. He had been a friend of the West because he had protected Western interests. Now no longer useful he became an enemy. The West turned against him, calling him a corrupt dictator.

Suharto was succeeded by his protégé Vice-president Habibie - a transition figure - who wanted to solve the East Timor problem because it was an international embarrassment to Indonesia. It was a pebble in Indonesia's shoe, and Habibie wanted to get rid of it. In other words the economic crisis in Southeast Asia briefly opened a window of opportunity for East Timor, and it

managed to slip through, although only after enduring another ordeal of death and destruction.

A Quick Response?

Another question worth asking is why the international community did not react until September 1999. Again there are at least two different interpretations.

One interpretation says that the UN could not intervene until Indonesia had agreed to accept a foreign force in the territory, and that did not happen until the 12th of September. As soon as permission was given, the international community acted swiftly. The Security Council adopted a resolution just three days later and the first troops began arriving on the 20th of September. Accordingly, the international response was not late but extremely quick. This interpretation is promoted by Western governments and Western media, presumably because it presents them as defenders of human rights and international law.

A second and more realistic interpretation begins with the fact that Indonesia had no legal standing in East Timor. Its presence there was always a violation of international law. It was not necessary to ask Indonesia for permission to enter the territory. The fact that Indonesia was asked shows that the international community was in fact legitimising the Indonesian occupation of East Timor, at least to some degree.

From January to September 1999 militia violence was escalating week by week, but the international community did not react until September. Events in East Timor were reported in the media with increasing intensity, which created international public pressure for action. When the international military force was authorised by the UN Security Council it was supported by the public, a crucial factor in enabling Western politicians to act.

Indonesia finally gave in and accepted a foreign force in East Timor because the US and the EU decided to suspend all military and civilian assistance to Indonesia. This powerful instrument could and should have been used long before the 11th of September 1999. Perhaps it should have been used after the 16th of October 1975 when Indonesia killed five foreign reporters in Balibo. If it had been used back then, there never would have any Indonesian invasion. The UN acted 24 years after the Balibo killings. Is this really a quick response?

Courage and Consistency

Today the people of East Timor are in a difficult situation. Looking back they see a traumatic past. Looking ahead they see a demanding future. Few people have suffered as much since World War Two. But even though the odds were stacked against them, the East Timorese never gave up. The resistance movement (CNRT) was organised as an armed struggle from the mountains, a non-violent underground civilian resistance in the occupied areas and a diplomatic struggle in exile. When the chance finally came, they were ready to take it.

During the long years of death and destruction the people of East Timor were represented by leaders who showed courage and consistency as well as dedication and determination. The most important and well-known figures are Xanana Gusmão, Carlos Felipe Ximenes Belo and José Ramos-Horta.

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J. 229

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230

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231

INDONESIA

Indonesia under Suharto was, as the anthropologist John Pemberton once put it, a place where nothing happened. Indonesia was routine political stillness. It was the absence of politics as we know it. It was a spectacle of forces and actors battling each other, with movers and shakers seeking the limelight. Every five years, popular passions were allowed to express themselves during two noisy, tumultuous, carnevalesque months of campaigning by any of the three parties contending the elections - elections which the government party routinely won by always the same margin. After these "excesses" - one of the regime's standard expressions for the occasional riots, attacks on police stations or supporters of a rival party that took place during the campaign season - the country would sink back into its slumber for another five years almost overnight. Normality and order prevailed once more. Democracy was theatre, ritual, the affirmation and celebration of order and stability, with the government making sure that it was "never to turn into something which makes us tense", as Suharto once defined his understanding of the concept. The rare episodes of open opposition to the regime in the Javanese heartland and acts of resistance in East Timor, West Papua and Aceh went down in the annals of the 'New Order' as *peristiwa*, isolated, unfortunate 'incidents' that served to underline the need for a constant vigil against the forces bent on dismembering and destabilising the nation.

Today, two years after Suharto was forced to resign, it seems to many Indonesians and foreign observers alike as though the country has been condemned to a future consisting only of *peristiwa* and of no order at all. History is accelerating with a speed that makes people dizzy. Presidential portraits of yesterday have to be replaced at ever shorter intervals. Schoolchildren have to learn the names of new provinces - there is an administrative restructuring going on, with consequences for example, for the Moluccas and parts of Sumatra - and unlearn those of others (such as East Timor). The country where nothing ever seemed to happen, has become a busy construction site, a bustling social and political laboratory.

Today the country is standing at a crossroads. One way points to religious and ethnic strife, to a morass of sectarian communal politics, civil war and mass impoverishment, with possibly dreadful consequences for the whole region. The other way points to the birth of a polity with which for the first time many people can actively identify, where the interests of civil society are recognised and represented, and where democratic institutions can prove that

they function better than autocratic ones. Events can tip the situation either way and at present nobody in his or her right mind would risk predicting exactly where all this is going to end.

There are those that feel that Indonesia is a Balkans in the making, that its disintegration is inevitable and that it will go the way of other vanquished empires of the 20th century. Like Austria-Hungary after its defeat in the First World War, like the Soviet Empire after it lost the Cold War, Indonesia, they say, has lost a war and will suffer the consequences. It has been debilitated by the Asian economic crisis and will be 'liquidated' as an empire by a world that is tired of humanitarian catastrophes and that is too full of political powderkegs, which Indonesia will certainly become if it is allowed to persist as it is. Others quietly count on the soothing effects of the economic upswing that the southeast Asian region has taken in 1999, hoping that the recovery of the economy will give the Indonesian people a stake in the democratic experiment that the country is embarking upon.

There are certainly signs that point in both these directions. Among the indicators for ill is the fact that parties and politicians have discovered religion as a rallying theme (a great many of the 70 parties contending the 1999 general elections appealed to the voters on the basis of religious affiliation). Many Christian and Hindu-Buddhist Indonesians (and therefore many indigenous people) have mixed feelings about the defeat of Golkar, the once omnipotent presidential party, at the ballot. Although Golkar was corrupt to the bone, to them it represented a secular strand in politics and with it the repression of religious extremism. Majorities of indigenous people in places like West, Central and East Kalimantan and Sulawesi voted for Golkar and lost along with the party. In these areas there are real fears that the accession to the presidency of the head of the Islamic brotherhood Nadhlatul Ulama, Abdurrahman Wahid, will mean that Muslim groups might now openly pursue an Islamicist agenda.

It may be paradoxical, but to some political observers, the fact that Jakarta was willing to negotiate on the fate of East Timor and allow a referendum before it was finally forced to give up sovereignty over the territory, is also of grave concern. They argue that this act of grace - even though it redressed a grave violation of international law - raised what are, after all, unrealistic hopes in other restive provinces (mainly Aceh and Irian Jaya, i.e., West Papua). Considering that further calls for secession by regions and peoples who feel oppressed by the centre are falling on deaf ears - and this does not only mean the military but also the broad domestic public to whom President Wahid,

unlike Suharto, is accountable - the new government appears to have little room for compromise. After years and years of brutal repression under martial law conditions, few people in Aceh and even fewer in Irian - at least during the first months of Abdurrahman Wahid's presidency - were willing to give Jakarta's offers on autonomy even so much as a close look, and much less a chance. Throughout much of 1999 it seemed as though the battle that the new government sought to wage for the hearts and minds of the disaffected citizens in these two regions, was lost before it even started. Faith in state institutions and particularly in the unreformed military, is very low. With the secessionists in New Guinea and Northern Sumatra pressing for independence - a campaign not only waged by symbolic means like the raising of the flags of the independence movements, but also involving guerrilla warfare and assaults against police and military targets - the Indonesian army will continue to resort to using terror tactics against the civilian population, no matter how well-meaning the incumbent president or government might be. Since the state has too much at stake in Aceh and Irian Jaya, and because there will be much less international support for the cause of independence there than in East Timor, there looms the prospect of bloodshed and suffering on a still larger scale than the local populations have experienced so far. This will have potentially disastrous results for the Indonesia's economy and the country's image abroad.

To stem the tide of criticism against the unequal distribution of powers between the centre and the periphery, and to help stave off the disaffection of virtually all Indonesian regions about the one-way flow of revenues from the provinces to Jakarta, on April the 23rd 1999 the Indonesian parliament (still under Habibie), signed into law a bill promising to grant more decision-making powers to provincial and district governments. This law, aimed at administrative decentralisation, gives provinces the authority to elect provincial parliaments and local officials without interference from central government for the first time. A second law was passed which gives the same bodies a limited amount of fiscal and legislative autonomy. Under that law which professes both to bring about the fair sharing of natural resources and to shift taxation powers to the regions, 80% of forestry revenues and 15% of net oil revenues, for example, are to remain in the provinces where they have been generated. While these new pieces of legislation certainly do represent a clear break with the centralist past, it is more than doubtful that they will succeed in defusing unrest in those outlying regions where secessionist sentiments run deepest. The law on 'regional autonomy', as the parliament called it, and

the one on the division of revenues, are laws addressed to the regional elites already *in power* who want to broker a new deal for themselves. They are not laws designed to please either the long persecuted leaders of dissident independence movements, or their politically and economically marginalised peoples as a whole.

Indeed, the pressure that resulted in the drafting and the final passing of the laws came mainly from established politicians - including governors and local party bosses of Golkar- and well-to-do businessmen in resource-rich, but not normally troublesome provinces like Riau, parts of Sulawesi and East Kalimantan. These 'white-collar protest movements' pressured the Habibie government with threats of unrest if their demands were not met, and the province of Riau even went so far as to declare itself an independent republic in mid-March, 1999. Whereas such theatrical rebellions can easily be quelled by the promise of a 10 or 15% share in oil revenues, the broad-based movements for independence in Aceh and West Papua which thrive on decades of brutal military repression and virtual occupation by the army, are not likely to compromise their cause for the promise of a few billion rupiahs.

Yet Indonesia would not be the only country in the world which could live with one or two locally contained insurgencies. With the pebble in its shoe (this is how the ex-foreign minister, Ali Alatas, used to refer to the East Timor problem) removed - we must not forget that West Papua and Aceh are considered, under international law, historically parts of the territory of Indonesia, and not an occupied nation like East Timor - Indonesia could, if everything else develops along the most positive of lines, theoretically regain a measure of the political stability and relative economic prosperity it once enjoyed, and steer clear of mass unrest in its heartland, Java. Yet that is exactly what one must doubt when one consults the data on the impact of the economic crisis that hit Indonesia in mid-1997.

Urban areas have borne the brunt of the crisis. Indeed, the whole of Java has been severely affected, since the economy of Java's cities and that of the hinterlands are closely linked. Throughout 1997 and 1998, the inflation rate oscillated between 70 and 80%. Unemployment officially stood at 22% (18 million people), although unofficial estimates put it at over 50%. By the end of 1998, it was estimated that 90 million Indonesians - mainly in Java - were living below the poverty line and at least 17 million families were suffering from acute malnutrition. As a consequence 'bread revolts' erupted, with mass lootings following in the wake of demonstrations in the cities, the occupation

of plantation land and the storming and looting of government warehouses in the Javanese countryside and fish trawlers along Java's coasts. The concern that the centre does not hold anymore, the fear that the empire may unravel along its edges, is less terrifying than the prospect of the centre itself exploding in revolt and bloodshed and descending into chronic violence. If the government does not succeed in reverting the current economic trends, such a development is not unlikely. With Java in turmoil, the whole of Indonesia will face a bleak and bloody future.

Yet on the other hand, there are some recent developments which give cause for cautious optimism. Seen in this light Indonesia has the potential to be an ethnically diverse nation in which local and indigenous rights are better protected. To begin with the new president who was elected on October the 17th 1999, may turn out to have been the best of all possible choices at this moment in time. Abdurrahman Wahid is a widely respected Muslim scholar with a long record of religious moderatism, with an intellectual and even cosmopolitan background. As such he is ideally positioned to defend the separation of mosque and state, and to curb the rising influence of a militant, Islamist Islam both in the population and within state institutions. Unlike Megawati Sukarnoputri, his rival for the presidency, he is known to be a skilful tactician and a shrewd politician. Being both male and a Muslim, he enjoys broad legitimacy in predominantly Muslim Indonesia, and he can use this legitimacy to carry out the sweeping political reforms that he has promised. Although his inauguration address sometimes struck an awkwardly nationalist note by putting the assertion of national unity high on the political agenda (in the same breath he bemoaned both the interference of outside nations and above all of Australia in East Timor, and the "insensitivity" of other nations towards Indonesians' pride and national sovereignty) this does not necessarily mean that under his reign Indonesia will resort only to strong-arm politics when dealing with insurgencies in the regions.

In fact, within three weeks of his election, Wahid launched an initiative on Aceh in the course of which he went so far - on last November the 4th - as to concede "in principle" to the demands of the Acehnese for a referendum like the one that made EastTimor an independent territory. He added that the Acehnese should be offered the same choices as the East Timorese. This was a surprising move, not only considering that Aceh is - unlike East Timor- a very rich province (Aceh's revenues from oil and natural gas make up 11% of Indonesia's total export earnings), but also because it is indeed likely that the 'loss' of Aceh would trigger further defections from the Indonesian state.

Many analysts agree that one of the main reasons why possibly a majority of the Acehnese, given the chance, would favour secession from Indonesia, is the Indonesian army's dismal human rights record during 10 years of de facto military occupation. (The region enjoyed special status as a *Daerah Operasi Militer*, a military operation zone, from 1989 until 1998, a status which gave the men in uniform almost unrestricted freedoms in their counter-insurgency campaign). On November the 4th the new supreme commander of the Armed Forces announced the withdrawal of all special operation forces - the troops charged with the most horrible human rights violations in Aceh - from the province before the end of November. As a further sign of Jakarta's goodwill, an Acehnese was made Deputy Supreme Commander of the army. And in an unexpected move at the end of October, President Wahid secretly met with representatives of the separatist guerrillas, the *Gerakan Aceh Merdeka* (GAM - Movement for a Free Aceh). Such a meeting, and, indeed, what could be the beginning of a protracted negotiation process, would not have been possible under Suharto's New Order. Under the old regime separatist insurgencies were described as *Gerakan Pengacau Keamanan* (movements whose intention it is to disrupt order, or 'troublemaker movements'). They were the exclusive preserve of the armed forces, since it was denied that they had any political substance at all, or that they might in fact be addressing real grievances.

From an optimist's perspective, it may matter little that to begin with, the Acehnese remained unimpressed by these new signs of openness from Jakarta. What matters more is the fact that the country's new leadership is admitting that they have a serious problem with Aceh, and that that problem needs to be solved, and to be solved - in the main - by political means. Indeed negotiations with the GAM's military leadership which started on a high level in mid-March 2000, have produced their first results. On May the 4th newspapers reported that the government and the GAM were ready to sign a military truce on May the 12th in Geneva. A much more unpleasant scenario, in fact, could be imagined in which the Indonesian leadership tries to deal militarily with the Acehnese. The army could continue to commit grave atrocities, secure in the knowledge that the prospect of an independent Aceh under the flag of a militant Islam sitting atop the all important geo-strategic Strait of Malakka would be cause for alarm among Western governments.

As of the time of writing, things in Aceh seem to have calmed down after the guerrillas lost a lot of political goodwill and military ground in the wake of renewed army offensives in the province in January 2000, which seem to have produced heavy casualties in the ranks of the GAM. As the military

237

fortunes turned, it became increasingly clear that the expectations raised by the radical Acehnese nationalists regarding the imminent dawning of independence were overblown. The air of optimism and 'revolution' that hung about the streets of the capital of Banda Aceh and the province's smaller towns during and after the events that led to East Timor's separation from Indonesia, has given way to resignation and an increasing weariness with a war that the GAM tells the people Aceh has to go through if it wants sovereignty.

A mere seven months ago, on November the 8th 1999, 500,000 people (a quarter of the province's total population) had taken to the streets of Banda Aceh, the provincial capital, to protest against the "violation of their unconditional right to a referendum". This was because Wahid had refused to indicate when the referendum could take place. A general strike called by the secessionist movement in August had been overwhelmingly observed, making it the largest such mobilisation in Indonesia since the mid-60s. Frustration in Aceh reached a peak after November the 17th, when the President backtracked from his earlier offer, declaring that independence had never been on the agenda. He stated, however, that the province, should it agree to his idea of autonomy, could keep no less that 75% of its oil revenues and introduce Islamic law, a long-time plea of the independence movement. For its part the army lost no time declaring, on November the 8th, that a referendum in Aceh would violate the constitution. Parliament followed suit, issuing similar statements.

While it became ever more clear that the President had just been playing for time when he had hinted that Aceh could - if its citizens should so decide - follow East Timor in seceding, Abdurrahman Wahid and his government may have won over many would be supporters of radical solutions in the restive province by standing up for other promises that he had made. Notably he said he would order investigations into human rights violations perpetrated by the army against Acehnese civilians and bring those found guilty to justice. On November the 25th last year, his then minister of defence, General Wiranto, had to answer charges of having authorised army terror in Acehunder during his term as supreme army commander, before a human rights commission of the parliament. He was later sacked by the President on the grounds of similar accusations regarding his role in the violence in the run-up to and aftermath of the referendum in East Timor.

The chances for a negotiated settlement of the conflict at the northern tip of Sumatra seem, at the time of writing, to be intact. Although unruly army commanders may in fact embarrass the central government at anytime by

shedding new blood in Aceh in the hope of derailing the peace process and weakening the President, Wahid has gained a lot of credibility by reigning in the military, and doing everything in his power to bring top-ranking officers to justice for atrocities committed under their command. Such a development would set a good precedent for a novel way of dealing with Indonesia's other regional insurgencies, notably the one in West Papua. The road towards establishing civilian supremacy over the military and overhauling the centralist set-up of the Indonesian Republic is still long and fraught with uncertainties. Yet the Wahid government deserves credit for restoring at least some of the political capital necessary for keeping the wilder political fantasies of the peoples from Indonesia's outlying regions in check.

A second reason for optimism (if, indeed, the first one just outlined qualifies as such) comes from the fact that the economic crisis had grave impacts in some parts of the country, but not in others. It has not been as all embracing or as utterly devastating as some of the earliest reports would have us believe. In most areas the livelihood of many indigenous peoples has not suffered further from the impacts of the meltdown of the modern economic sector (like banking, insurance, industrial production, and many middle-scale enterprises in the town and cities). And in some regions, indigenous economies have, in fact, prospered. Whereas drought-related and forest fire-related, famine was reported in 1997 and 1998 respectively, in parts of Irian Jaya and East Kalimantan, in the absence of such disasters, parts of Eastern Indonesia (including East Nusa Tenggara and Maluku) have been and are doing relatively well. This is as a result of both a cocoa and copra boom, and the end of Tommy Soeharto's monopoly of the clove trade (Forrester 1999:16). For the economies of many regions with indigenous populations, the devaluation of the rupiah has been a blessing, since this led to a sharp rise in exports and in net earnings from the export of cash crops such as pepper, cocoa, fish and prawns. This has been the case in many parts of Sumatra and Sulawesi, where people in fact are happy that the *krisis moneter* (monetary crisis, abbreviated as 'Krismon') occurred, and want it to continue. The outer islands' comparative economic gain over Java may, in the short and mid-term at least eliminate some tensions in the regions on the micro-economic level. It might also compensate the peoples of the periphery for some of the political and social inequities that they are likely to continue to suffer for at least some time at the hands of the centre. If these economic trends on the outer islands continue, the combustible mix of economic and political frustrations that have accumu-

lated there may, for the moment at least, have been rendered a bit less dangerous.

No doubt, post-Suharto Indonesia is a messy, confusing place, with all sorts of people getting at each other's throats. Two years after the ousting of Suharto, an estimated 1500 to 2000 people have died in communal violence in at least half a dozen hotspots across the archipelago. The pervasive depolitizication of Indonesian society engineered by Suharto and the elimination of institutional channels to address communal grievances under his regime are now ensuring that such frictions take the form of uncompromising, murderous street action. More often than not, religious differences separate the fighting groups, lending the clashes a particularly cruel and merciless quality. We have learned that where such primordial 'tribalism' rears its ugly face, divisions become unbridgeable and problems defy solutions. Yet a closer look at some of the cases of what is presumably 'religious' violence, will reveal rather that it is mundane matters and not religion that often lie at the heart of the problem. Practical political solutions should therefore be found to remedy such problems. The concluding point here is that the view according to which the collapse of authoritarian rule over a multiplicity of ethnic and religious groups matter-of-factly unleashes destructive 'primordial' energies, is quite simply wrong. It may be true that sometimes "good fences make good neighbours", but there is no natural law saying that fenceless neighbourhoods will automatically and inevitably turn into bloody battlefields. A brief, concluding analysis of the unrest that started on the island of Ambon in the Moluccas in January 1999, will underline this point and maybe help us see Indonesia in a less dark and less medieval light.

The island of Ambon, which until half a century ago was still predominantly Christian, has over the past decades seen a massive influx of Muslim immigrants. These have come from both within and outside the Moluccas. (Contrary to foreign perceptions, many of the Moluccan islands have traditionally had strong Muslim majorities). Conversion to Islam has further shifted the balance. A strong local elite on Ambon equates being Ambonese with being Christian, but recent population figures show that statistically, that this is no longer true. Muslims now enjoy a slim majority on Ambon, and since 1992, it has had a Muslim governor, a convert from an old and prestigious Ambonese family. Now Ambon's urban population - and it is in towns where the unrest started and the first killings happened - is heavily dependent on direct and indirect employment in the civil service. Over a quarter of the town-based population finds employment either directly in the administration, or does contract work for the government. To get hold of government

money and jobs, you need connections - and that is where religious affiliations come in.

People often identify with a particular religious community for quite worldly reasons. In Ambon at least, joining the Protestant or the Muslim community means being part of a network that not only worships God in a certain way, but does practical things for its members - providing access to friends in powerful places for example, or protection when things get tough. These networks extend to influential circles in Jakarta. And they also extend downward to street level, where gangs of young men provide what an inefficient police force cannot. Now the simmering tensions between the old Christian elite and their Muslim challengers increased significantly when, late last year, the incumbent Muslim governor appointed fellow Muslims to the posts of deputy governor and provincial secretary - the two most sought after positions beside the governorship. Soon afterwards, rumours started to circulate which had it that the governor was about to replace a total of 38 top civil servants, all Christians, with Muslims. This effectively was the moment when the disgruntled old families of Ambon, led by the governor's main political rival, decided that they had to act.

It had long been an open secret that the two-time loser in the gubernatorial race for the Christian faction maintained links with certain figures from the criminal underworld not only in Ambon, but also in Jakarta. The Moluccan gangs operating in the capital all have a more or less religious identity - some are Christian, and others Muslim. Christian Ambonese mobsters control, amongst other things, the shopping malls, parking, and gambling dens in northwestern Jakarta. The trouble in Ambon began shortly after 200 Christian gang members retreated to Ambon after they had lost a gangland turf war in Ketapang, Jakarta, at the end of 1998. On the invitation of people close to the governor's rival, the Christian thugs started to hold meetings in Ambonese church halls, mobilising for conflict with local Muslims. Rival Muslim gangs, meanwhile, gathered at a major mosque in town. Both sides prepared contingency plans for an attack from the other side. When a trivial incident occurred at the city's bus terminal, word was passed on to each side that the final showdown had started.

From here on things escalated as each side believed only its version of events. Muslims spoke of halting the "christianization drive". Christians spoke of Islamic 'fanaticism' in Jakarta and Muslim zealotry in national politics, while some spoke nostalgically of the Christian-dominated South Maluku Republic which lasted from 1949 to 1950. With the killing of people from the hinterland and from other Moluccan islands occurring during the course of

the clashes in Ambon town, vendetta style violence spread to many parts of the archipelago, resulting in a final overall death toll of several hundred between January and April 1999. Dozens more people were killed as well when fighting broke out anew between mid-July and early August.

If this version of the events is to be believed, it is rivalry between elites and not sectarian conflict that is at the core of the problem in Ambon. The main players are motivated by the prospect of material gain and the defence or procurement of political office and privilege. Instead of there being amorphous masses of irrational, suicidal believers intent on confronting one another, there exist rather, clearly structured opposing networks with aspirant or incumbent governors near their top and, down the ladder, local movers and shakers with connections to the underworld in and outside the region. Clearly, the solution to the fratricidal violence in this part of the archipelago lies not so much in an ecumenical dialogue or in outlawing certain expressions of religious identification, but in reforming government in general and in abolishing pork-barrel politics in particular.

More on West Papua in the section on the Pacific Islands.

MALAYSIA

The Orang Asli of Peninsular Malaysia

The September 1998 sacking of Deputy Prime Minister, Anwar Ibrahim, led to a chain of events that was to change the structure of Malaysian - and in particular, Malay - politics. The general election was not due until April 2000. However, ever since the sacking of the former Deputy Prime Minister and the resultant political crisis within UMNO, speculation was rife that the general election would be held soon - as it was felt that the Prime Minister would want to hedge off the impacts of the strengthening political opposition and the probable further decline of the economy. The elections were eventually held on the 29th of November 1999, amidst a period of political flux in the country, at least as far as Malay support for the ruling coalition and for Prime Minister Mahathir Mohamed was concerned.

The political turbulence had caused many UMNO (the dominant Malay party in the ruling coalition) members to leave the party to join the opposition. It also saw the establishment of a new Malay-based multi-ethnic party, Parti Keadilan Negara (ADIL), the National Justice Party. More importantly, it saw the opposition parties closing ranks and uniting under a coalition called

the Barisan Alternatif or Alternative Front. For UMNO and its President (who is also the Prime Minister), this meant that they could no longer rely on the votes of a large segment of the Malay community who traditionally stood steadfastly behind UMNO and the ruling coalition. As such, the votes of the non-Malays were crucial to the political survival of UMNO and the National Front. This meant that once more Orang Asli voters had to be made a fuss of, with their support again being vital in their role as pawns in the game of Malaysian political chess.

As early as January 1999, the Orang Asli began to be the focus of attention. An instance of this occurred when the National Unity and Social Welfare Ministry, the ministry responsible for Orang Asli affairs, revealed that there were plans to implement several income-generating activities for the Orang Asli that year (*New Straits Times* 11.1.1999). And, given that the issue of Orang Asli land rights and ownership was still the main concern of many Orang Asli, government leaders began once again to reiterate their commitment to resolving the issue. Citing figures that have seen little change over the past three decades, the Minister in charge of Orang Asli Affairs, Zaleha Ismail, urged state governments to speed up the gazetting of Orang Asli land (*The Sun* 8.4.1999). Citing the same figures, but interpreting them mistakenly for something new, the First Finance Minister, Daim Zainuddin, announced that "large areas of Orang Asli land are to be gazetted" (*New Straits Times* 10.5.1999, *Berita Harian* 10.5.1999).

On the 22nd of June 1999, in keeping with the tradition of election years, the Prime Minister officiated at a big Orang Asli 'jamboree' in Bukit Lanjan, on the outskirts of Kuala Lumpur. About 600 Orang Asli village-heads were bussed in from throughout the Peninsular, ostensibly to witness a private developer's function in which certificates in building competency were awarded to 17 Orang Asli youths who had completed training in skills such as bricklaying, plastering and backhoe operations. The establishment of the training institute (at the construction site) was part of the compensation package for the Orang Asli when their land was acquired by the state and later sold to a private developer.

The Prime Minister's speech, in fact, went down well with the Orang Asli guests especially when he assured them that the government wanted to upgrade their standard of living "without changing their culture and tradition ... as in having a *Tok batin* as their leader" (*New Straits Times* 23.6.1999, *The Star* 23.6.1999). He also stressed how the Orang Asli were being well taken care of by the government, citing the case of Bukit Lanjan, the place where he

243

was speaking, where the relocation exercise of the 158 Temuan families, it was claimed, would soon turn them into millionaires (*The Sun* 23.6.1999). No one however questioned how a RM61 million (US$16.04 million) compensation package (that included compensation in kind) for 158 families could make them into millionaires either as individuals or as families. Nevertheless, the Prime continued with his arrogant stance when he 'magnanimously' declared that, "There is no other country where their aboriginal people become millionaires", adding that, "In the west, they are herded into reserves and taught to become drunks" (*The Star* 23.6.1999).

However, in the eyes of the print media prior to the general election, the state of Kelantan in particular, became a focus of Orang Asli attention. This was not unusual as the Barisan Nasional wanted to dislodge the opposition Islamic Party (PAS) from its control of the state. Thus, as early as February 1999, the Rural Development Ministry announced that it had approved RM20 million (US$5.3 million) worth of projects "to improve the living conditions of the Orang Asli" in two settlements in Gua Musang (*New Straits Times* 19.2.1999, 22.2.1999). The projects included widening the existing cement road, improving the water and electricity supply, the construction of a bridge and the purchase of a boat to transport children to school.

In August, at a special function for the Orang Asli community in Kelantan, the State UMNO liaison committee chairman, Tengku Razaleigh, told the Orang Asli that their living conditions and livelihood prospects would improve under a National Front state government. He said that it would also take measures to overcome problems concerning the Orang Asli community including matters pertaining to the gazetting of Orang Asli reserves (*New Straits Times* 4.8.1999). At the same function, Tengku Razaleigh, in his call to the Orang Asli to help the National Front win in the coming general election, also claimed that several areas of Orang Asli reserve land had been encroached on by some parties, including state government agencies, for logging and other activities.

"The Orang Asli have to face a difficult life now. They are robbed of their source of income when other people encroach on their land and steal the rattan. Even their water supply is no longer clean due to the excessive logging being allowed by the state government in the Kelantan forest," added the prince-cum-Member of Parliament for Gua Musang, in an obvious attempt to win the favour of the Orang Asli by putting all the blame for their woes in Kelantan on his one time ally, and now political opponent, the PAS government. Similar pronouncements were made by several government leaders to

woo the Orang Asli vote, especially after the general election was eventually called on the 29th of November 1999.

Orang Asli votes, however, did make a difference in the parliamentary seat of Pekan in Pahang where the Barisan Nasional's incumbent, Najib Tun Razak, who is also the Education Minister, won by a mere 241 votes. Clearly here, even if Orang Asli voters counted for only 6.5 per cent (2429) of the total 35,832 voters registered in the constituency, their vote was instrumental in securing victory for the ruling party. And although the Orang Asli generally voted for the National Front in this election, their votes made a difference for the opposition in at least one constituency. This was the state seat of Chini, in Pahang, where the majority (Malay) vote was split. Here, the National Front incumbent lost by a mere five (yes, five) votes.

Although the Orang Asli voters here comprised just five per cent of the 11,168 registered voters, their 558 votes, though small in absolute terms, were nevertheless crucial in such a situation. As it turned out, the National Front's defeat in this state seat was attributed to its party workers' failure to provide adequate means of transport to the polling station for 80 Orang Asli voters from one settlement. A pick-up truck was sent to which the Orang Asli voters took exception. Their request for other vehicles was turned down and as a result the Orang Asli decided not to cast their votes. This was to cost the National Front the seat.

In fact, a month after the general election, an Orang Asli from the area, going by the pen name of 'Ingin Pembangunan' ('Wishing for Development'), urged the National Front government to learn from the lessons of the last election, especially in his constituency (*Utusan Malaysia* 5.1.2000). Despite having voted for the ruling coalition in the past elections, he wrote, there was nothing to show in terms of development for the community - no electricity, no piped water and no agricultural development project. The Orang Asli may not be a majority here he reminded them, but each and every one of their votes still counted. This admonition seems to have been heeded by the ruling party for, in March 2000, when a by-election was called in the Sanggang state seat in Pahang, no effort was spared to win the Orang Asli vote. Although the Orang Asli voters numbered just 1.4% of the 15,276 voters in the constituency, none of their 217 votes was taken for granted.

Thus, during the campaign, the usual announcements of development projects and aid were made, including a RM10 million (US$2.63 million) allocation from the state for 'development projects' and another RM50 million (US$13.2 million) which is being sought from the Federal Government (*New Straits Times* 17.3.2000, *Berita Harian* 17.3.2000). In fact, the state

J - 245

minister for Orang Asli affairs and his team literally camped in the two Orang Asli villages on a rotation basis during the campaign period and conducted a "mind-boggling, packed itinerary of daily events for the amused villagers" (*New Straits Times* 25.3.2000). These ranged from *gotong-royongs* (community self-help cleaning-up programmes) and telematches to nightly open-air screenings of Hindi films and karaoke events, interspersed with political speeches all boosted by crates of alcoholic drinks. It is therefore clear that due in part to the changed scenario in Malay politics, the Orang Asli vote has become important once again - important enough to make those seeking their votes realise that the Orang Asli have been left behind in the country's march towards development and that it is time to make redress.

Supporter of the Orang Asli independent candidate putting up posters of the candidate as well as that of POASM. November 1999 (Foto: Colin Nicholas).

The 1999 general election also saw a new phase in Orang Asli political activism - direct participation in electoral politics. Over the years Orang Asli leaders, especially those in the Peninsular Malaysia Orang Asli Association (POASM), have advocated the need to participate in the political arena if

they are to get themselves heard and recognised. There have been frequent calls for POASM itself to be turned into a political party. Thus, in mid-1999, moves were afoot to register a separate Orang Asli political party called the *Parti Orang Asli* (POA). By September 1999, the formal application was submitted to the Registrar of Societies and it was no secret that a few key leaders of POASM were behind this initiative. According to Majid Suhut, "The establishment of an Orang Asli party is now most appropriate in order to safeguard the interests of the Orang Asli ... just as how other minority groups in Malaysia have done" (*Berita Harian* 31.8.1999). He added that it was time for the Orang Asli to depend on their own party and not the party of another community.

However, when the general election was eventually set for November the 29th 1999, the party's application had yet to be approved. It was then that a small group of POASM leaders decided that independent Orang Asli candidates should contest the Pahang state seat of N2 Jelai (where 38.8% of the 8995 voters were Orang Asli). The state seat afforded an Orang Asli candidate a fair chance of winning (provided they could garner all the Orang Asli votes) as the political scenario in the country meant that National Front incumbents were sure to be strongly challenged by candidates from the opposition Alternative Front. Norya Abas, a Semelai plantation manager from Tasek Bera, thus contested the state seat which was enough to make the incumbent state assemblyman visibly anxious. The Jelai state seat covered the Semai communities in the main Betau Regroupment Scheme as well as isolated Semai communities in the interior hills of Pahang, most of which is accessible only on foot or by four-wheel drive vehicles. Campaigning for the Orang Asli candidate was therefore an uphill task.

Norya ran his campaign on the premise that there was a need for the Orang Asli to have their own elected representative in government. Despite being offered enough information to discredit the incumbent's reputation, the team chose to campaign purely on its ability to persuade the Orang Asli voters to accept the call for Orang Asli political representation. Such a straightforward appeal to Orang Asli sentiments succeeded in swinging support to the Orang Asli candidate, although the process was very slow and energy consuming. No promises were made about bringing development to the area. Nor did the constituents ask this of the candidate.

The inroads made by Norya's campaign caused much concern to the incumbent, a three-term assemblyman who belongs to UMNO, the major partner in the ruling National Front government. The incumbent's team instigated a major counter campaign that involved the distribution of financial

J. 247

and material largesse. Nevertheless, the Orang Asli took all these usual election vote catching tactics in their stride and were happy to take whatever goodies were offered without revealing their choice of candidate.

The incumbent's campaign then began using a different strategy, employing Orang Asli canvassers from the area as well as a prominent Orang Asli radio personality and the Orang Asli senator. The Orang Asli voters were told not to vote for the independent Orang Asli candidate because he was not of the same ethnic subgroup and did not reside in the area. There was even a suggestion that the Orang Asli candidate, because of his name, was a Muslim and therefore had suspect motives for participating in the elections. (This was said despite the incumbent not being an Orang Asli himself). In addition, the incumbent's campaign was clever enough not to rely on Malay canvassers, knowing full well the local Orang Asli's relations with them. Instead, local Orang Asli leaders, including those working for the Department for Orang Asli Affairs, were effectively used to campaign for the incumbent.

Not surprisingly therefore, the inroads made by the Orang Asli independent candidate began to quickly collapse in the final 48 hours of the campaign when last-minute visits were made by the incumbent's Orang Asli canvassers to try to swing the vote. The incumbent's campaign also got some help from an unexpected source - non-Orang Asli Christian missionaries. In one settlement in Ulu Betau, where the Orang Asli independent candidate's team was received warmly on its first visit, the reception it received on its second visit could not have been more different. So much so that posters of the independent candidate were pulled down and discarded in front of the visiting team. The about turn in support for the Orang Asli independent candidate occurred primarily as a result of Christian missionaries suggesting to villagers that voting for an independent candidate meant voting for the Alternative Front. And with the Islamic party, PAS (whose stated objective is to set up an Islamic state) being a major member of the opposition coalition, there was nothing to prevent them, if the Alternative Front came to power, to embark on a programme to convert the Orang Asli to Islam.

The personal involvement of the Sultan of Pahang through his endorsement of the incumbent was also instrumental in swaying the votes back to the UMNO candidate. The Sultan's decision to '*turun padang*' (to literally 'come down to the field') in the Betau Regroupment Scheme during the closing hours of the campaign, undoubtedly swayed the Orang Asli voters there, since the Orang Asli have a special place in their hearts for him. Nevertheless, Orang Asli voter turnout for the general election was very low, averaging 42.2%, with the interior settlements only showing about 30% voter turnout.

The low voter turnout in the outlying areas was attributed to the dire economic condition of the Orang Asli. "They don't have enough to eat," said one civil servant, explaining that Orang Asli voters were not willing to forego a day's subsistence work just to vote in a polling centre a few hours walk away. By comparison, voter turnout among non-Orang Asli voters in the constituency was 77.4%.

The number of votes garnered by the Orang Asli independent candidate was a mere 141, causing him to lose his deposit. While this seems to suggest that the Orang Asli are divided on the need, and timing, to seek political representation through the electoral process, it should be pointed out that this particular foray into electoral politics was not without its built-in handicaps. Leaving aside the fact that the Orang Asli independent candidate was up against an incumbent who had a well-oiled election machine, as well as access to a great deal of financial and human resources, it was perhaps imprudent to have assumed, in the first place, that the Orang Asli would naturally vote for an Orang Asli candidate, or any candidate for that matter. Furthermore, the short campaign period did not allow a cash-strapped and resource-deprived team to effectively campaign in all Orang Asli areas. Several settlements were not visited directly by the candidate or his campaign team who instead relied heavily on young, hastily-recruited canvassers (or rather 'messengers') who were unable to articulate the issues adequately.

Nor was any prior groundwork done to familiarise voters with the candidate and his candidacy. That the candidate was a '*calun terjun*' ('parachute-candidate') worked to his disadvantage, especially since he was neither from the area nor of the same language group. The 'secrecy' surrounding the candidacy until just a few days before nominations were called, also contributed to dissension among POASM leaders about the whole process, including the choice of candidate (who incidentally, was neither active in POASM nor widely known to other Orang Asli leaders).

Nonetheless, all things considered, the Orang Asli candidacy was an important learning experience for the Orang Asli. And if we are to identify one good that has come out of it, it has to be the impact it has made on the political players in the country. Undoubtedly the Orang Asli vote will no longer be taken for granted. In what was a clear response to the scare the Orang Asli independent candidacy gave the ruling National Front, the Chief Minister of Pahang announced soon after the general election that four special officers were to be appointed to report directly to him on issues involving Islam, and the Chinese, Indian and Orang Asli communities (*New Sunday Times* 12.12.1999, *Sunday Star* 12.12.1999).

249

But perhaps more importantly for the Orang Asli themselves, this foray into electoral politics has been an education in itself for them. For one, while it is evident that Orang Asli individuals at the local level are more receptive to the idea of direct political involvement, this idea does not seem to go down well with some of the more educated Orang Asli. Strong attachment to the *status quo* and personal vested interests have variously been suggested as possible reasons why these Orang Asli are not willing to stand behind an overtly Orang Asli cause. As such, it may be necessary for the Orang Asli to reassess the nature and extent of their political aspirations and objectives.

On a more positive note, the current year saw a significant victory for the Orang Asli when in March 2000 the Federal Court - the last leg in the appellate court process - ruled in their favour in the Linggiu Dam case in Johor (*Adong Kuwau & Ors v Kerajaan Negeri Johor and Anor).* The Orang Asli had sued the government for loss of income and subsistence as a result of the construction of a dam to supply water to Singapore in their traditional lands. The state government had ruled that the said land belonged to the state and that the Orang Asli did not have rights to it. However, the High Court judge ruled that, while the Orang Asli may not have owned the land, they had customary rights to its use, and so awarded the community RM26.5 million (US$6.6 million) for loss of income over a 25 year period. This case is set to boost the cause of other cases that are arguing for land rights pure and simple, and not just usufructuary rights.

Sabah

In Sabah, among the issues that came to the fore in the 1999-2000 period are the ninth Sabah State election and the efforts made by the government towards a sustainably managed forest. This article will also focus on women and the continued struggle to strengthen their organisations.

Politics: The End of Multi-Ethnic Parties?

The state elections in March 1999 saw 3 political parties - the National Front (BN), Sabah United Party (PBS) and the newly-formed Sabah People's Front Party (Bersekutu) - contested in all the 48 state assembly seats. The BN political campaign issues centred on its development achievements and that the opposition PBS's stance of "protecting Sabah rights" would only contribute by worsening economic situation and political instability. Never once though did any of the parties address the real issues of the indigenous com-

250

munities, which numbers 1.4 million (74% of Sabahan population). Issues such as rights to land, recognition of indigenous identity and the right to determine the type of development that is beneficial to people as a whole.

The results came out almost as planned - BN won 31 seats and PBS 17 - perpetuating disillusion in the election system. PBS blamed scare tactics, money politics, voters' transfer and the giving of identity cards to non-citizens (an estimated 800,000) - thus giving them the right to vote - as the main reasons for their defeat. A very worrying factor is the further delineation of electoral boundaries, which will only widen the ethnic and religious divide. The boundaries have been changed to further reduce the number of constituencies for non-muslim indigenous bumiputras (predominantly Bajaus, Brunei Malays, Irranuns, Suluks and Bugis) resulting in 26 Muslim bumiputra-majority seats, 12 non-muslim bumiputra-majority seats, 7 Chinese-majority seats and 3 "mixed" seats. The election trend has shown consistent support for the PBS from the Dusun, Murut and Paitanic indigenous groups (so called "non-muslim" bumiputras). PBS, which ruled Sabah from 1985 - 1994, also won the 1994 state elections with a simple majority but defections of several assemblymen to the BN, and the repeal of the anti-hop law, denied it from continuing to govern Sabah.

The federal government's all-out effort in the recent campaign ensured that the United Malay National Organisation (UMNO) - the dominant Malay West Malaysian party - won all the 24 seats it contested as part of the BN. This is considered unbelievable due to the prevailing strong sentiments of Sabahans about West Malaysian parties and the support for PBS in some of these constituencies. Although UMNO put this down as a change in the people's perception, it has nevertheless cast a lot of doubt on the election system.

Not long after the State elections, the Parti Demokratik Sabah (PDS), the main Sabah-based bumiputra component party of the BN launched a new image based on an old party name - the United Pasok Momogun Kadazandusun Organisation (UPKO). The move was made to consolidate the non-muslim indigenous communities, as they believe that multiethnic parties can no longer garner enough support to form the government. With the Chinese parties, the present government is made up of a coalition of three ethnic-based parties.

Despite its problems, it was believed by many that the multi-ethnic parties that have ruled for two decades would have been a better choice in Sabah. As expressed by a political analyst "... despite the system of rotating chief ministership and the rhetoric of power-sharing and rule by consensus, UMNO, in fact, dominates the other parties in the Sabah coalition". At the federal government level, struggles for power and control among members in the BN

and the invariable dominance of UMNO in the coalition has always been acknowledged as a silent, but explosive issue. Having such a model should have been a lesson for Sabahans to heed.

Forest and Environmental Management

In an attempt to comply with the ITTO guidelines on sustainable harvesting of logs through timber certification, the Sabah government, through the Forest Department and the newly-formed National Timber Certification Council (NTCC) came together to outline the criteria and indicators for assessing sustainability (see The Indigenous World 1997-98 for more details on Sabah's strategy to implement it Sustainable Forest Management System, SFMS). Consultations with stakeholders were carried out at the Sabah State level as well at the national level. These consultations - though attended by NGOs working with indigenous communities - were seen by many to be far too rigid; and limited as it did not involve communities directly and the consultations were carried out in such a short period.

The Malaysian Criteria and Indicators (MC&I) strictly followed the ITTO model guidelines and focused mainly on technical aspects to assess timber extraction and reforestation which is mainly through the establishment of tree plantations. It did not provide enough space for the recognition of indigenous peoples rights to land and forest resources, communities' contribution to forest management and active involvement in the monitoring and assessment of the Forest Management Units (FMU). A social baseline study is required as pre-requisite to a management plan for the community forest area in each FMUs. The requirement for baseline studies however, did not include a specific guideline on the scope and coverage of the study, and did not stipulate the involvement of indigenous communities in carrying out the studies. Apparently, many of the studies were carried out by FMU holders themselves or were contracted to universities.

In general, communities are considered as passive participants and recipient of social and economic programmes in the SFM activities. It was also disturbing to observe that the attempt in timber certification was regarded by the logging companies as holders of the FMU for a 100-year tenure, and the Forest Department as a mere exercise without much commitment and urgency to implement.

To indigenous communities, the SFMS could be seen as a strategy to get recognition to their forest, albeit in a limited way. A number of community workshops were organised to explain the government's policy to take part in delineating and zoning community forest areas within the FMU which is re-

quired by the SFMS. The workshops were meant to prepare communities to be more involved in taking part in the assessment and monitoring of companies operating within or near customary forest areas. These local efforts could be complemented by the ongoing national level campaign to get recognition to land and resources. Other efforts include joint dialogues with Park officers to exclude customary land from parks and protected areas.

Meanwhile, the floods that hit the Penampang district in January 1999 - the worst ever - revealed serious environmental problems that are characterised by poor town planning and management. The flood was made worse by the damming of one of the tributaries of the Moyog River. Much of the forest areas in the district have also been exploited and replaced by either rubber smallholdings or residences, while mangrove, rice fields and swamps have been land-filled to make way for development. The fact that there are no by-laws to control earth-moving activities allows developers to do as they please. Many of the Kadazan and Dusun communities residing in the area complained of huge property and farm losses from the flood as it happened just before the harvest period.

Indigenous Women in Sabah

Generally, the issues affecting indigenous women today centres on involvement in decision-making, lack of recognition of the roles women play in society and getting the same opportunities as men. Active participation in decision-making and having equal opportunities in the social, economic and political arena has to be a conscious effort of any groups working with indigenous communities as well as by communities themselves. In the organising work of the indigenous organisation PACOS (Partners of Community Organisations) with communities and the subsequent activities organised by communities organsations themselves, women have learned that they need not be in a subordinate position all the time, and that they have a stake in the community's affairs. However, women have to be encouraged to take up decision-making positions after gaining the necessary confidence and the few strong women who have emerged as role models have encouraged many others in the community to come forward.

It also includes being actively involved in land issues and negotiating land rights, which for example is regarded as a man's domain. For many indigenous women in Sabah, this process has been through initial involvement in areas that are familiar to women such as education and socio-economic activities for confidence-enhancement, from which they move on to take an active role in other issues.

The discussion on gender issues also brought forward the fact that the division of roles based on gender as practised in traditional activities are considered as egalitarian and need not be seen as stereotyping the roles of women. For example, it is generally accepted that while both men and women work together in rice farming, the heavier tasks still fall on men's shoulders and the lighter but more tedious tasks in agricultural production are generally performed by the women. However, due to change in the social environment, there has to be a constant review of these roles to allow for more sharing of responsibilities.

THAILAND

During the past decades profound changes have taken place among the indigenous peoples - often called 'hill tribe peoples' - who live predominantly in northern and western Thailand. Most of these changes expose underlying problems and are weakening the rights of indigenous peoples where they relate to traditional cultures, economy, and religion. Currently the main problems which they face are lack of citizenship and land rights, changing governmental policies and the reduction of accessible land for sustainable cultivation. Furthermore, the loss of cultural traditions and the forced adaptation and assimilation of ethnic minorities to the Thai majority are creating severe problems in the younger generation's lives.

The disastrous deforestation that has occurred in the wake of economic development since the 1960s and the increase in the Thai population has had serious consequences for the minorities. Both the Thai people, and in many places the indigenous peoples as well, saw their traditional sustainable agriculture replaced by an intensive, export oriented agriculture. Indigenous people were often relocated because the government confiscated their lands. This regularly took place in the name of conservation and the regeneration of land. But in reality the driving interests behind such programmes were those of the mining and logging companies.

One-sided reporting made the indigenous peoples appear responsible for the environmental damage in the uplands. Since the government has become more sensitive to environmental problems many organisations, both Thai and foreign, have been trying to improve the situation. But the ideas and solutions that were used were foreign and did not take the specific situation and culture of the indigenous peoples into account, and this caused new complications. Today there is an urgent need for establishing a network among the different

ethnic groups and their communities to further understanding of their situation and to strengthen them in their struggle for their rights.

Evictions of Upland Farmers

In 1999, the conflict between lowland Thai and highland indigenous farmers intensified further. The lowland Thai farmers and environmentalists were acting both independently of and in co-operation with government personnel. It is estimated that in 1999 about 600 tribal people were evicted from their homes as a result of the collusion of lowland farmers' interests and the government's environment policy in the uplands.

For example on March the 29th 1999, 13 houses and their crops were destroyed in a raid on Tungpaka village in Chiang Mai province, which left 60 people homeless. That day 30 armed men came and walked from house to house. They did not say anything and just set the houses on fire while their inhabitants worked in the fields.

On August the 21st 1999 another incident occurred in Nan province. Led by the Director General of the Royal Forest Department, Plodprasop Suraswadi, about 10,000 lowlanders, forest rangers and soldiers marched through the hills to Paklang village. They trampled over the rice fields and lychee groves of Hmong people and planted tree saplings. That was the beginning of a series of 'reforestation exercises' whose aim is to return the area to its 'original state'. Mr Suraswadi stated that five years from now, he will have closed this land. He insisted that he would not forbid access to the highlands but there would be no more cultivation.

The case of Akha communities in Chiangrai Province struggling to prevent eviction from their lands due to the government's environment policy is reported on in more detail below.

Citizenship and Land Rights

The first population census was conducted in Thailand in 1956 according to the National Household Registration Act. At that time indigenous and tribal peoples were not recorded due to both the difficulty in accessing their villages and due to the lack of officers. An official survey of indigenous and tribal peoples took place in 1969 to1970 covering 16 provinces in the lower and upper parts of northern Thailand, namely Nan, Chiang Rai, Chiang Mai, Mae Hong Son, Lampang, Lamphun, Tak, Sukhothai, Kampaengphet, Uthaithanee, Phisanulok, Loei, Phetchaboon, Prachuabkeereekhan, Phetburi and Ratchaburi. 119,591 people were officially recorded.

255

During the past three decades, the highland population has increased from 119,591 to 1,033,931 people in 1999. Amongst these people, there are 494,104 who have already been granted Thai citizenship, while another 107,276 are still in the application process. The rest have been granted various different statuses. These include being a legal immigrant, possessing temporary residence, and having highland people status, which means you are given a highland people identity card (either blue or green). This statistic shows that almost half of the hill tribe people still have not received Thai citizenship. Those people who have not yet received Thai citizenship are vulnerable and easily exploited by outsiders. Moreover, they are not allowed to travel outside their own district since doing so requires a special pass. On many occasions indigenous people mentioned that they were not aliens but second or third generation Thais.

There are two other major problems resulting from the lack of citizenship. Firstly the people cannot apply for a 'Sor Thor Kor', a land use certificate, which means that they cannot legally use the land they occupy. Secondly without citizenship it is difficult to find employment, and once hired, exploitation and extortion by the employer are easily possible.

Because these problems have not been solved, around 10,000 of the affected people, mostly tribal people, gathered for a rally in front of the Chiang Mai City Hall in late April 1999 to air their grievances to the government. The rally protested against the rejection of citizenship for tribal people, the present forest policy (including the non-recognition of land rights) and inefficiency and corruption within the government bureaucracy. The 'Rally for Rights' in Chiang Mai drew a lot of attention to the situation of indigenous peoples in Thailand. On April the 19th the Thai state dispersed the rally by using an unconstitutional degree of force. It was a morning of great terror for the women, children and elderly who had gathered at City Hall in Chiang Mai, so the demonstrators agreed to move away from City Hall.

'The Rally for Rights' of May 1999 did bring about results. One consequence was a Cabinet Resolution made by the Thai government. Addressing both the issues of land rights and citizenship, it provides for:

a) *Land Rights and Land Tenure / Laws of the Royal Forest Department:*

- The establishment of an ad hoc working committee to review the contested four forestry laws. This review process must take place within a time limit of 90 days from the establishment of the committee.

- Both individual and communal land use areas within communities must be surveyed and registered at the district offices of the RFD within 30 days of the date of the proclamation.
- The delineation and marking of the land areas have to be registered
- All communities must prove their use of the land before the declaration of National Park or Protected Area status and must prove their ownership of the land according to the law.

b) The Issuing of Citizenship:

- The establishment of an ad hoc committee to review the problems of citizenship and the existing processes for claiming Thai citizenship. This review process must take place within 60 days of the establishment of the committee.
- Three categories of people exist within the group who have problems regarding citizenship:

1. People who have fallen through the process of claiming citizenship. This group includes people whose parents or relatives have official Thai citizenship or have documents to prove they qualify for citizenship themselves. People who fall into this group must present themselves at the district office of the Ministry of the Interior and the provincial office and apply for citizenship within 60 days.

2. People who are not yet ready to apply for citizenship, due to incomplete documentation or having not yet completed the necessary process of preparation. People in this group must be aided in the process of preparing the necessary documentation by the ad hoc working committee.

3. People who have entered Thailand after 1991 and therefore fall under the classification of 'alien status'.

The 'Rally for Rights' had further consequences besides. On the positive side, a seminar in Chiang Mai and another in Bangkok were held, their specific focus being on tribal peoples' problems. On the negative side, on May the 24th the Chom Thong Conservation Group composed of lowland Thai villagers protested against academics from Chiang Mai University being involved in the rally.

257

In May 1999, there was a meeting of NGOs at the Northern Development Foundation, their aim being to plan a more concrete division of tasks and responsibilities among NGOs and to train staff working directly with the communities vis-à-vis the Cabinet Resolution.

With regards to the citizenship issue, a sub-working group was set up after the establishment of an ad hoc working group to study existing laws and regulations concerning the citizenship issue, and the criteria required for granting legal status to illegal highlanders. Furthermore the sub-working group has been mandated to report back to the working group for consideration of its findings, before it submits its recommendations to the cabinet for final approval. The study has just recently been finished and has been approved by the cabinet. It will be in force from June the 1st 2000. The current revised regulation/law is expected to have a big impact on the indigenous peoples, especially those groups who do not yet have legal status. They may be allowed to stay in Thailand on a temporary basis, or even be repatriated to their country of origin. However the classifications and identifications to be applied are still unclear and very problematic.

CAMBODIA

Access to Natural Resources in Highland Cambodia

The majority of the people in Cambodia are ethnic Khmer who live in the lowlands where paddy rice is the main crop. Besides the lowland Khmer, Lao, Cham and people of Vietnamese origin, Cambodia is also home to different indigenous highland peoples. They live in the hills of the provinces of Ratanakiri, Mondulkiri, Kratie, Stung Treng, Pursat, and Kompong Speu and have their own languages and traditional cultures. Their livelihoods depend mostly on swidden agriculture. They grow a great variety of upland rice interspersed, in the same fields, with a number of different vegetable crops. This diet is supplemented by fishing, hunting small animals and collecting forest vegetables and fruits. Other forest products like rattan, bamboo and vines are used for construction and household and agriculture utensils.

Since the onset of peace in the 1990s, previously remote areas are becoming more accessible. As they are rich in natural resources like timber, land and wildlife they attract new settlers, logging companies and poachers. Because of the population growth in the central lowland provinces, land in these areas is becoming scarce and expensive and landless people move to areas where land is still abundant. Meanwhile they are encroaching on the indig-

enous highlanders' communal lands and forests, as these local communities have no official land titles. In general, lowlanders are better informed about how to obtain legal land rights than the local highlanders are, and this is accentuated by the fact that highlanders cannot speak or read the official national Khmer language. Loss of communal lands also occurs as several government, military and police officials use or misuse their knowledge and positions to become owners of large tracts of land. In addition they stimulate land transactions when they can benefit financially from mediating in land sales. Another threat to the traditional communal land tenure system comes from the national government. It is at the national level that concession licenses for logging and industrial agricultural production are given out. This mostly happens without consulting the provincial government, let alone the local communities who live on these lands and whose livelihoods depend on the forest resources.

Illegal logging was unrestrained in the 1997/1998 season. The International Monetary Fund (IMF), the Asian Development Bank (ADB) and big donors called strongly on the national government to put an end to illegal logging as it caused a tremendous financial loss to the national budget, and only enriched a small group of influential officials and the military. The IMF even put their assistance on hold to force the government to take action.

Besides these negative developments positive trends were also visible. Non-governmental organisations (NGOs) and international organisations (IOs) working with indigenous highlanders started to raise awareness about sustainable development among both government authorities and local people. A process of consultation to discuss and respond to indigenous peoples' needs and rights developed between the Cambodian government, NGOs/IOs and representatives of local communities. A number of meetings and workshops took place at local, provincial and national levels, during which issues related to land security, land rights and natural resource use and management were discussed. These exchanges contributed to an increased understanding and appreciation of the unique situation of the indigenous highland cultures and natural resource use practices.

In September 1997, the Inter Ministerial Committee for the Development of Highland Peoples (IMCDHP) prepared draft National Policy Guidelines on Highland Peoples' Development. These guidelines include the recommendation, amongst others, that the highland peoples have the right to participate in and to be consulted on all decisions, plans and projects that affect their lives and communities. In mid-2000, at the time of writing, these policy guidelines still need to be discussed and approved by the Council of Ministers and

259

the National Assembly. It shows that continued intensive lobbying is needed to keep highlanders' issues on the agenda.

Changes in Access to Natural Resources During 1999-2000

Land Law

In 1998, the ADB linked the provision of agricultural loans to a revision of the 1992 land law as many land issues were not properly regulated, landlessness was increasing and many irregularities and disputes were taking place. To deal with the increasing number of land disputes, Provincial Land Conflict Resolution Committees were set up in 1999 to mediate in local land quarrels. If a case cannot be settled at provincial level it can still be referred to the National Land Conflict Resolution Committee.

The 1992 land law is mainly based on the culture and land use-practices of lowland Cambodians and hardly reflects the communal land management practices of indigenous highland peoples. The land law revision therefore offered an excellent opportunity to lobby for the inclusion of a specific chapter on the land rights of indigenous communities.

Intensive discussions took place between NGO/IO land law working groups, the land law consultants of the ADB and the United Nations Development Programme (UNDP), government officials and highland communities. It proved of utmost importance to provide explanations to and to lobby key figures in the government, since most of them are not very aware of the distinctive culture of highland peoples. The IMCHPD organised a national workshop on the 23rd to the 25th of March 1999 to discuss indigenous peoples' land rights. Both Vice-Prime Minister H.E. Sar Kheng and the Chair of the Council of Ministers M H.E. Sok An, attended the national workshop. The timing proved to be perfect as this workshop followed closely on the heels of the 1999 Cambodia donor meeting which had just taken place in Tokyo and where the chair had stressed that Cambodia should urgently address forest and land management issues. The main contradiction between the opinion of the indigenous peoples and government officials is that most of the local communities prefer communal land titles and recognition of their traditional communal land use and management systems, while government officials prefer the system of individual family land titles.

On the 29th of March 1999, during a meeting with representatives of the Council of Ministers (CoM), it was agreed that a chapter on indigenous peoples' land rights could be included in the revised land law. NGO/IO working group members consulted again with local communities and met several times

with the ADB consultant team. In February 2000, the ADB land law consultant team agreed on the draft chapter on land rights for indigenous communities and on submitting it to the government. However in the Khmer translation, some of the most crucial paragraphs from the chapter on indigenous people had been left out. What was left were some general statements that do not provide the necessary protection to local communities against land grabbing and land speculation nor are they a sufficient safeguard to enable them to continue traditional swidden agriculture in a sustainable way. A quick reaction of the NGO/IO working groups is now needed as the CoM have started their discussions on the new land law proposal.

Will the new Land Law protect their land rights? Members of a Kreung community in Ratanakiri harvesting swidden rice (Foto: Christian Erni)

Encroachment

In Ratanakiri province, non-highland people and companies continue to settle on traditional highland community land, especially near the provincial

261

and district capitals. Some villages are starting to take protective measures and plant cashew or other fruit trees along the main roads to prevent outsiders taking possession of fallow land. Most highlanders have little means to earn a cash income and because things are changing fast in the direction of a money economy, financial offers are very tempting. Several families started selling land that originally was perceived to belong to the whole community, some sold all the land they had once cultivated and moved on to another area, while others only sold part of the land that they cultivated and remained within the village. They believe that it is better to sell the land now and receive some money for it than to lose it soon to investors without getting anything in return. However, other villagers are opposed to such land sales and this disagreement causes tension amongst the villagers. It has been noticed that nowadays villagers participate less readily in development activities requiring community involvement. Where social coherence is breaking down community support systems are also weaker when compared with other villages in the area that have been less affected by land sales and encroachment. In the above mentioned area land shortage is now developing and some villages are already encroaching on other villages' traditional land causing tension and disputes among different highland communities. (v.d. Berg, 2000)

A new problem is occurring in the southwestern provinces in the Cardamom Mountains. Intensive illegal logging and poaching is starting to take place in areas that were previously inaccessible as Khmer Rouge opposition fighters had camps there. New settlers are also starting to move in to develop agricultural land within deforested areas. The indigenous peoples who have lived undisturbed through all the years of war may now be confronted with outsiders intruding on their lands. If this trend is not properly managed, the forests and their still abundant resources might start to dwindle fast.

Forests

In early January1999, the Royal Government of Cambodia (RGC) ordered a total crackdown on illegal logging activities and the closure of all companies and sawmills that are active in illegal ways. Immediate action was taken and well-trained armed teams were sent out. By the end of January the 9th logging concessions for a total of 2,173,046 hectares throughout the country had been cancelled. By December 1999 21 logging concessions with licenses for a total of 4,739,153 hectares were still active (Global Witness, 1999).

Nevertheless, new concession permits were given out, even to companies with bad records that had previously been proven not to respect sustainable forest management practices (like Pheapimex Fuchan Cambodia Co. Ltd and Hero Taiwan Co. Ltd). The national government provided Hero Taiwan a

license for a concession of 60,150 hectares in Ratanakiri province for a 25 year period. Within the concession area 10,000 people in 33 villages make their living. The Hero Company's agreement with the Forestry Department states that sites important to culture or tradition, or areas that communities wish to protect, shall be excluded from logging. However, Hero brought road builders and loggers into the villages without any such consultations taking place. In mid-March, Hero's loggers and road builders started to build a road into the forest, against which villagers began a protest. On the 11th of May 1999 villagers in Svay, Khmeing and Santouk villages were forced to thumb-print a document signing away their lands for logging (Global Witness, 1999). The villagers opposed the logging as it destroys the ecological system on which their livelihoods depend. They also believe that the forest spirits will become angry and will cause illness or deaths in the villages. The provincial authorities and NGOs/IOs tried to mediate in the conflict. It was agreed to carry out a cultural resources study to define the impact of logging on sites of religious and cultural significance. Non-timber forest product collection sites, spirit forests and spirit mountains were mapped in O'Chum district and teams were trained to carry out similar surveys in other areas of the concession to ensure that Hero would respect these culturally important sites (Government Departments 2000).

Although Pheapimex Fuchan has a very bad reputation due to previous illegal activities, they once again obtained a logging concession license for 350,000 hectares within Stung Treng and Ratanakiri provinces. The concession includes areas in the buffer zone of the Virachey National Park, one of the most important protected areas of Cambodia. When the park was created, security problems meant that the boundary could only be approximately demarcated. The Royal Decree establishing the park allowed for future expansion. There was a proposal to do this by creating a buffer zone. Both Ratanakiri and Stung Treng provinces approved this, before it was discovered that the National Department of Forest and Wildlife had granted a forest concession to Pheaphimex. Since then the proposal for the buffer zone has stalled.

Following talks between the RGC and the ADB in January 2000 to discuss the country lending programme, the RGC advised the ADB that further borrowing for forestry sector development was not a current Government priority. The Government requested that ADB focus technical assistance more on advisory tasks related to a forest concession review, forest law and regulation and community forestry guidelines.

In April 2000, a draft report of a Cambodian Forest Concession Review was released and discussed. The report states that no one entity is to blame for

the crisis situation that has arisen in Cambodia's forests and that the crisis is the result of a total system failure, resulting from greed, corruption, incompetence and illegal acts that were so widespread and pervasive as to defy the assignment of primary blame (ADB 2000). Most forest concessions inspected were rated as demonstrating very poor to unacceptable levels of performance. Concession holders do not agree with all the criticisms levelled at them and remarked that much of the illegal activity takes place by powerful military interests and that it is impossible for them to prevent it (Phnom Penh Post, 2000). A new agreement requires all concessionaires to redo their management plans and to consult and co-ordinate with communities. Given the previous record of many concessionaires, a number of NGOs remain concerned about the retention of the worst concessions and are pushing for their cancellation. It would appear, however, that this will be unlikely and that the ADB and other donors will not push for their removal. In general, there is still no real critique of the suitability (or otherwise) of a centralised industrial forestry system in delivering benefits or compensation to local communities, in spite of the fact that there is much evidence to the contrary.

Water

Deforestation starts to have a negative impact on water supply as less rain is stored in the ground and topsoil is just washed away by heavy rains. Felled trees block streams causing a diminished supply of water and fish to villages. Villagers living in the vicinity of a 20,000 hectare palm oil plantation in Oyadao district, Ratanakiri mentioned that the quality of the water was affected by fertilisers and pesticides used at the plantation (v.d. Berg, 2000).

In the rainy season of 1999, a vast area of low lying agricultural land along the Se San River was flooded when water levels of the Se San River suddenly rose because of the release of a large volume of water from the Yali Fall Dam reservoir in Vietnam. Since then, in the dry season as well, vegetables and tobacco gardens along the Se San River have been flooded due to irregular fluctuations. Flooding due to releases from the Yali Fall Dam seems to have occurred since 1996 (personal comment Ian Baird.) As a result of continued releases it has become increasingly dangerous for villagers to cross the river or fish in it. The quality of the water, especially when the river is high, seems to constitute a serious health threat which needs to be looked into (personal comment Ian Baird). In addition, because people are not informed in advance when water will be released, a large amount of fishing gear and a large number of boats have been lost. Some villagers moved their houses to higher areas and others are planning to do so as well. If more people move to

higher lands they might swap fishing for hunting, putting pressure on the wildlife population in Virachey National Park which is situated nearby (Baird, 2000).

Wildlife

With the opening up of previously inaccessible areas, it was not only poachers but research teams as well who, in 1999/2000, penetrated Cambodia's dense forests to register, count and photograph its still abundant wildlife population. Entire intact ecosystems and food chains have been found, as well as many species that are threatened with extinction in other parts of Asia. Protection and conservation measures are urgently needed to save these unique environmental habitats. However, many people see wildlife as equalling money. Poaching and official wildlife deals through the Department of Forestry and Wildlife pose serious threats, as there is great demand for animals and animal parts that can be used as aphrodisiacs, medicines or for medical tests. Since hardly any institutional protective measures are in place, conservation might prove difficult. A sign of the growing awareness of this problem is that Prime Minister Hun Sen attended the opening of a zoo for rescued and confiscated wildlife situated near Phnom Penh. He called for a halt to poaching, to protect Cambodia's wildlife and to keep animals in the wild.

Health Situation

Healthcare in remote areas remains precarious. In 1999, a serious cholera epidemic spread among the population of Ratanakiri province. One hundred and thirty people died because neither the population nor the health officials recognised the seriousness of the epidemic until too late in the day. The number of victims could have been fewer if immediate action had been taken when the first cases were brought in. Smaller epidemics of other diseases such as whooping cough and measles have also resulted in deaths and disability among indigenous highland communities, since irregular vaccination campaigns do not reach them.

Indigenous Women's Network

During 1999-2000, the Indigenous Women's Network in Ratanakiri has been actively advocating the representation and participation of women in consultations on the use and management of land and forest resources by indigenous peoples. But one of its main activities was to lobby the national government to recognise the communal land rights of indigenous communities in the new land law. This resulted in one of its members being chosen as a member of the NGO/IOs Working Group on Land and Natural Resources.

265

Some members of the Indigenous Women's Network have been attending national and international workshops and meetings like the ADB consultation in May 2000 in Chiang Mai, Thailand. Individual members also followed a variety of training workshops, including some on leadership and others which dealt with issues relating to elderly people. Some of the indigenous women who know the Khmer language are now studying English as they want to be able to participate in conferences and meetings in a more active way.

Resource Persons

Conny v.d. Berg, UNDP/CARERE, Ratanakiri, Gender/Natural Resource Management
Advisor.

Gordon Patterson, Non-Timber Forest Products Project, Ratanakiri, Co-ordinator.

Graeme Brown, Department of Environment, Ratanakiri, Community Forestry Advisor.

Tiann Monie, UNDP/CARERE, Land Advocacy and Indigenous Women's Network.

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BURMA

Burma[1] is a country rich in ethnic diversity. The Burmese regime which calls itself the State Peace and Development Council (SPDC)[2] has used this diversity as a justification for repression, claiming that its rule is necessary to keep the country united. All ethnic groups, with the exception of Anglo-Burmese, South Asian and East Asian immigrant communities, are considered indigenous to Burma, in their specific localities. The ethnic Burmans who dominate the rich delta area also dominate the central government. It is this Burman dominated military which rules the country with an iron fist. The junta has used a policy of 'Burmanisation' to suppress and eradicate the identity of other indigenous groups. Religion, too, has been used as a justification for oppression, particularly in the context of ethnic nationalities who may not be Buddhists, e.g., Chins and Karens who are predominantly Christians, and the Rohingya who are Muslim.

Prior to colonisation by the British and independence in 1948, some ethnic states and/or principalities considered themselves to be separate or semi-independent from the central government. In 1947, Bogyoke Aung San (Burma's Independence Hero) and several ethnic state leaders signed the Panglong Agreement, a document endorsing the formation of a Union of Burma. The Panglong Agreement enshrined many rights of the different indigenous peoples, which were included in Burma's Constitution. Disagreement and resistance to the erosion of these rights by subsequent (mostly military) administrations have resulted in a continuing situation of civil war in many ethnic states.

For purposes of convenience, the term 'ethnic' is used in this article to define non-Burman ethnic groups indigenous to the country. It is preferable to the use of the term 'ethnic minority', as the total population of non-Burman

JC 267

ethnic nationality groups may be more than the perceived Burman majority. Brackets ( ) containing dates appearing alongside incidents described in this article indicate the dates these incidents were reported, either in the mainstream or community media.

The Impact of Burma's Human Rights Crisis on Indigenous Peoples

Burma's military regime, the State Peace and Development Council, is one of the world's most notorious offenders of human rights. The gross mismanagement and violations perpetrated by the junta affect the lives of all of Burma's citizens (including, ironically, low ranking military personnel) prompting it to be described as an "equal opportunity violator". Indeed, the junta has used all the labels at its disposal to justify the abuse of a range of communities - on the grounds of political affiliation, religion and ethnicity.

It is important to note that in most situations of conflict and oppression, it is usually women and indigenous peoples who bear the brunt of the impact. Burma is no exception -the most brutal violations tend to occur more frequently in rural areas, especially in the border areas, where there are large concentrations of people of non-Burman ethnic background.

In the civil and political context, the military's refusal to recognise the outcome of the general election it organised on May the 27th 1990 has also greatly disadvantaged non-Burman ethnic nationality groups. The National League for Democracy (NLD) which won 81% of parliamentary seats, has a far more progressive policy on ethnic diversity. Seventeen per cent of parliamentary seats were won by ethnic-based parties, and only two per cent by the military-backed National Unity Party. Several of the ethnic parties have been since banned.

While some observers see the civil and political abuses of the junta as mostly affecting Burman dissidents, such abuses also prevent ethnic nationality groups from legitimately exercising their political rights. Greater democracy in Burma is also desired because it implies greater political space and possibility for the ethnic groups and the Burman administration to achieve a peaceful, political solution.

Gross mismanagement by the military administration, the devotion of greater national resources to military machinery at the expense of education and health, and the more obvious human rights violations have had the following results:

- Greater militarisation amongst some ethnic groups, especially in areas vulnerable to SPDC attack and looting;

- Loss of life and safety;
- Loss of property, access to traditional lands and sources of livelihood;
- Increasing food scarcity and malnutrition;
- Suppression of cultural identity and education;
- Lack of basic healthcare and education opportunities;
- Increase in internally displaced people and refugees;
- Greater vulnerability to human trafficking;
- Increased feelings of humiliation and psychological and emotional trauma.

Militarisation and Civil War

On the junta's side, forced and coerced recruitment into the army continues unabated. Tragically, young men and boys from ethnic groups are often recruited to be pitted against civilians and rebel soldiers in other ethnic areas. The need to defend communities and retaliate against military attacks, has led many ethnic rebel armies to seek to increase their own capacity through contributions of material resources, recruits and information from their communities. The incidence of child soldiers in one of the highest in the world, with all sides guilty of this violation. This was highlighted by the media frenzy over 'God's Army' led by 12-year-old twins Johnny and Luther Htoo in early 2000.

Villages suspected of supporting rebels are subjected to brutal violence and penalties. These communities suffer from being 'sandwiched' between government and rebel forces, having to provide resources and recruits to both sides. Many lose both life and property when fighting between opposing sides breaks out. In recent times, the SPDC has helped establish ethnic militia groups as counter forces to ethnic rebel armies.

Burma is becoming one of the most heavily mined countries in the world. Anti-personnel landmines are used by the SPDC and most of the rebel armies.

Human Rights Violations

The pattern of human rights violations committed by the junta is consistent with general patterns of low intensity warfare inflicted on many indigenous communities around the world and in history. The 'motivations' for these abuses can be broadly categorised as efforts to:

- Control indigenous communities through fear;
- Displace communities from their homelands and livelihoods in order to erode their identity;

- Create pools of low cost and/or slave labour, and maintain a human buffer zone between government troops and rebel armies;
- Cut off support to rebel armies and dissident groups;
- Clear land in order to sell or rent it to migrant or business interests, or in order to produce cash crops;
- 'Sanitise' areas for so-called development projects which will benefit the junta, e.g., the proposed Salween Dam project which will cause immense damage to indigenous communities and their environment.

Human minesweepers. Due to the fear of being made to be human minesweepers, over 500 Karen people fled central Karen State in spite of the treacherous monsoon season. The Karen National Union reports that five light infantry divisions from the junta's military have been told to subjugate the area this year, clear it of landmines, and use villagers as human minesweepers (2nd of September 1999).

Harassment and Forced Relocation. The forced relocation and harassment of villagers thought to be sympathetic to opposition forces continues unabated. A relocation order was issued for 31 in the Kyar-in-seik-kyi township (6th of April 1999), and in early May 1999, three Shan villages were given three days notice to relocate. Thirty-four villages were given three to four days to relocate in the Murng-Pan township and were warned that anyone remaining would be assumed to be "destructive elements" (30th of April 1999).

Forced Labour. Labour is being demanded for the industrialisation of agricultural lands in Kachin State's Mohnyin township. Householders in every village in the Indawgyi region of the township are required to contribute labour (29th of November 1999). The Chin also suffered forced labour orders for road construction (29th of May 1999) and the arbitrary detention of 100 villagers (26th of June 1999).

In January 2000 the Arakan Rohingya National Organisation (ARNO) reported that Rohingyas were being used as forced labour on a UNHCR development project in Arakan state. Local Military Intelligence Chief Major Win Myint used hundreds of Rohingya from Nanragone, Maunggyitaung, Alaygyaung and Seinyaung wai village tracts as forced labour on a highway project. The villagers were forced to sign blank pieces of paper stating that they had received money. Neither the UNHCR nor the SPDC appear to have investigated or responded to this report.

Attacks on villages. A group of 60 SPDC soldiers fired upon a Lahu village in Tachilek, as the village was suspected of aiding Shan resistance (6th of May 1999). An Akha village suffered a similar fate when 30 soldiers entered the village and killed the headman and three villagers as an example to other villagers who might contemplate assisting the Shan (6th of May 1999).

A mother and daughter thought to be carrying food for Shan soldiers were raped and killed (13th of April 1999). Fifteen Shan fisherman also accused of providing food to Shan resistance forces were surrounded by 80 junta troops and were beaten and killed (9th of April 1999). Later, 11 Shan villagers were beaten and killed by SPDC soldiers near the Thai border of Chiang Mai Province (13th of April 1999).

Food Scarcity. Starvation is spreading due to the militarisation of the government and the economy, according to a comprehensive report compiled by *The People's Tribunal on Food Scarcity and Militarisation in Burma.* The military forces farmers to sell a percentage of paddy fields for redistribution at half the market price. It also destroys crops, relocates villages, and extracts cash from people under the pretext of counterinsurgency measures (20th of October 99).

There are reports from eastern Shan State that farmers are forced to sell a portion of their harvest to local authorities at one third of the market price. When farmers complained, they were told that these were orders from Rangoon (3rd of November 1999).

In Laikha Township (southern Shan State), farmers were told to sell a certain amount per acre of their crop, and even those whose crops failed were not exempt (3rd of November 1999). This means that the farmers must buy rice from the market (at market price) in order to sell their quota to the military at the reduced price.

Political Repression. Three leaders of ethnic nationality parties were arrested after meeting with Assistant UN Secretary-General Alvaro de Soto, when he led a mission to Burma. Naing Tun Thein, 82, Chairman of the Mon National Democratic Front, and Kyin Shin Htan, Chairman of the Zomi National Congress were arrested on the 3rd of November. Dr Saw Mra Aung of the Arakan League for Democracy and Speaker of the Committee Representing the People's Parliament (the CRPP, established in September 1998 when the military ignored an ultimatum by MPs-elect to convene Parliament) was also arrested and sentenced for 13 months. No reasons were given for the arrests (12th of November 1999).

J. 271

U Aye Tha Aung, who represents four ethnic nationality parties on the Committee Representing the People's Parliament was arrested on April the 23rd 2000. At the time of printing he remained detained *incommunicado* with no available information as to his whereabouts or state of health:

Language ban. In an area where signboards bearing village names in Shan script were posted alongside signs in Burmese, an SPDC Commander ordered that all such signboards be destroyed (5th of April 1999). Even in cease-fire areas, ethnic languages are being made illegal. In October 1999, Military Intelligence ordered the closure of an ethnic Mon school in Kwan-Tar village, Mudon township. The students' parents were told that the school was an illegal institution and that the teaching of Mon language was also illegal.

'Cease-fires'

In areas where 'cease-fires' have been negotiated between the SPDC and local ethnic groups, human rights violations such as forced labour, extortion and the suppression of ethnic language education still takes place. In practice, the junta uses cease-fires strategically for both economic and military purposes. For example, a cease-fire group and local junta commanders opened up gambling dens in Mong Pan township (28th of April 1999).

Shan Cease-fire. A report by an SSA-North commander explains how SSA-North's territory was reduced to one-tenth of its former size, and how the junta prohibits logging in the area. But logging, sometimes carried out by Burmese troops, occurs in other parts of Shan State, indicating that the reason for the prohibition is to cut off a possible income source for the SSA-North and not because of environmental considerations. The SSA is also prohibited from recruiting, while local people are forced to serve as militiamen in 'Anti-Insurgency Units' (21st of October 1999).

Refugees

The past year has seen increases in the numbers of people fleeing Burma. In Thailand alone, hundreds of people cross the border each month seeking refuge. While it is to the advantage of receiving countries to categorise those fleeing Burma as 'illegal migrant workers', it is undeniable that most people who leave the country are fleeing conditions of civil war, human rights abuses and extreme poverty resulting from the regime's brutality and mismanagement.

In Thailand for example, Shan ethnic refugees are denied recognition as refugees and no refugee camps exist for them. The same holds true for several other ethnic groups as well. These groups are excluded from the official refugee figure of 120,000. Meanwhile, both internally displaced people (IDPs) in Burma and refugees located on the Thai border are vulnerable to attack, abduction and extortion from the SPDC and SPDC-backed militias. In several instances the junta has also denied the citizenship of refugees or 'migrant workers'.

Refugees along borders. The conditions in refugee camps can differ from one region to another. People living in camps in Thailand are generally provided with rice and salt. Most of the camps have reached their capacity, if they have not already exceeded it. As NGOs are allowed to provide food for the official number of people in the camps, new but uncounted arrivals do not receive rations. They must either find food in the jungle or depend on the generosity of other refugees. The Thai government continues to threaten to repatriate the refugees, with the Thai National Security Council Chief declaring the situation in Burma to be 'normal'.

Internally Displaced Persons. Human rights organisations estimate that between 600,000 and a million people in Burma are internally displaced. Some of these communities have been forcibly relocated by the military *several* times. While some internally displaced persons move from village to village, others are obliged to hide in the jungle. Others live in relocation sites designated by the military regime. In such sites, shelter, food and employment are not provided, making life extremely difficult. Some people return to the areas from which they were relocated, to harvest crops. This is a dangerous activity as many women have been intercepted en route, accused of providing assistance to ethnic resistance groups, and harassed and killed.

People who flee into the jungle face extreme difficulties finding food and fighting disease. Some are able to forage for food in the jungle, and sometimes they sneak back to relocation sites for rice. Safe drinking water and hygiene are also serious problems. To avoid detection by soldiers, people often do not build houses and avoid making fires, even when it is cold. When IDPs decide to move across an international border to become refugees, their journey is perilous. They have to travel at night if soldiers are near. Some areas have been heavily landmined.

"Migrant Workers". It is estimated that there are about 800,000 'illegal migrant workers' from Burma in Thailand, working for low or no pay. The

Thai government frequently engages in mass deportations of these people but they usually come back, normally after having paid hefty bribes to officials from both Thailand and Burma.

Women

State-sanctioned violence is one of the most serious threats to women's well-being, especially in ethnic areas. This violence may be directed at the population at large, as is the case with forced labour and forced relocation, but it can also be directed specifically at women. Humiliation of and violence against women has been documented repeatedly as a tool used to terrorise communities. Women have been tortured, raped, and killed, and women who speak out against injustice have also been subject to similar violence as examples of what happens to 'troublemakers'. When communities seek justice, it is often not the perpetrators of violence but the communities that suffer.

Economic instability and increasing poverty are also great threats to overall wellbeing. Women bear much of the burden of providing for their families, but lack equal educational opportunities. Yet their responsibilities are great, leading to increased migration to the cities and to neighbouring countries. Exploitation by traffickers is more often the rule than the exception for these women.

Women's Economic Rights

Women in conflict areas often become primary income earners by default, when their husbands are taken away for forced labour or are killed. The lack of employment opportunities often leads to the trafficking of women in Burma both domestically - from rural areas to the cities - and internationally. Women are trafficked to work in various fields including construction, agriculture, factory work, and sex work. Travelling through contacts with brokers is a common means for women to migrate for economic reasons, but it is neither a safe nor secure means of doing so, and it often has devastating consequences. In its attempt to prevent women from being trafficked to neighbouring countries, the military regime created a law prohibiting women between the ages of 16 and 25 from crossing borders unless accompanied by a legal guardian. The regime claims that this law is there to protect women, but in reality it only makes them more dependent on traffickers to get them through checkpoints and makes them more vulnerable to exploitation.

Forced Labour. In conflict areas, forced labour is often accompanied by extreme violence and leads to food scarcity by undermining a family's capacity

to grow their own food or to engage in paid labour to buy food. Women are conscripted to labour themselves, or have to maintain the household while the husband is doing forced labour. In many cases, men flee the village in order to avoid forced labour orders, but women are then rounded up instead. Forced labourers are often beaten and women are also subject to rape.

Access to healthcare. Access to healthcare in general is limited, especially in rural and conflict areas. Approximately 35% of the population has no access to public primary healthcare services of any kind. Women in ethnic areas where forced labour and forced relocation are problems have extreme difficulty in maintaining their own and their families' health. Not only is there a lack of medical care, there is insufficient food and shelter, contributing to poor overall health. Forced labour and fear of violence by the military regime's troops, force many rural communities to flee into the jungle. Whilst there, people can die of diseases which are not usually life threatening, such as chickenpox, fever, and diarrhoea.

Violence Against Women

Military sanctioned violence against women is rampant in Burma. It is exercised for the purpose of making examples of those who challenge authority. Violence can take place anywhere, but is particularly common during forced labour, in detention centres and in conflict areas or areas where there are large numbers of military troops. Seldom is justice of any sort obtained after violence occurs. Much more frequently it is the case that the victim, her family, or community suffers if they report the violence to higher authorities.

Violence and forced labour. Besides being a severe form of economic oppression, forced labour is also a source of terror to communities due to the violence which often accompanies it. The Special Rapporteur for the UN Human Rights Commission on Burma, Rajsoomer Lallah, has also documented violence against women in his interim report to the UN General Assembly. He cites the case of one woman who fled to Thailand after being forced to work as a porter four times while still nursing her baby. She was also beaten. In another case, women of Shan ethnicity were among a group of porters forced to carry chickens and dried meat for a military unit from Murngtorng. The porters had to sleep on the ground, tied up with a yoke, but the women were kept separately. At night, their screams were heard by a farmer who was also part of the group of labourers. Although it is not stated here, it is not uncommon for women porters to be raped by soldiers.

JL 275

Violence whilst in Detention. Women may be detained for their political activities, their involvement in ethnic resistance movements, or even simply because of their perceived links to anti-regime groups. When women are detained, they are extremely vulnerable to rape and harassment. Violence is used to terrorise not only the women and their communities, but to demoralise the men as if to say they are not strong enough to take care of their own women. In one instance in May 1999, four married couples were detained when the captain of a battalion did not recognise travel passes issued by another battalion. They were held for three days and nights, and the women were taken to another place and raped every night. They were released only when their relatives paid 10,000 kyat per couple.

Other Acts of Military Violence. Women are also victims of violence when they encounter soldiers or when troops enter their villages. At the end of October 1999, four women who had been forced to relocate returned to their fields to reap their rice. They ran into 30 SPDC troops and were subsequently raped and killed. The captain of the battalion accused them of providing the Shan resistance with rice. When the troops returned to the relocation site, they told authorities and community leaders that they had gone to shoot rebels but as all the men got away, they were only able to kill four of the wives. The townspeople had to go and find the bodies themselves in order to determine the identities of the women who were killed.

Among the regime's troops, the most feared in Karen areas are the *Sa Thon Lon*, the Bureau of Special Investigations of the Directorate of Defence Services Intelligence and its Guerrilla Retaliation squads. The Guerrilla Retaliation squads work in small groups with the explicit purpose of executing anyone suspected of present or past connections with the KNU or KNLA. The Guerrilla Retaliation squads are known for being especially brutal. If they even suspect that someone is a supporter of or involved in activities of the KNU or KNLA, their methods of execution are often gruesome. People have been stabbed repeatedly and dismembered, no questions asked.

Consequences of reporting sexual violence by military personnel. In general, survivors of sexual violence face not only the physical impacts of violence, but are also stigmatised for their experiences. In cases where women do have the courage to speak out and file complaints against perpetrators who are military personnel, a small amount of money is sometimes given to the family to 'compensate' them. More often, however, the perpetrators face no consequences and those who report the crimes are harassed further.

In one case in June 1999, four women were raped after being interrogated about their links to Shan resistance forces. The father of the youngest victim complained to the headman and members of the Village Committee, so they all went to the battalion and filed a complaint with the Commander. The Commander lined up 70 soldiers and instructed the girl to identify her rapist. The man, however, had been purposely left out of the line-up, and therefore could not be identified. The headman and the Village Committee members were then accused of defaming the military and were detained in the prison at the military base. This was not the end. The following day, the headman was beaten until he lost consciousness and the families were ordered to pay 2000 kyat each for the release of the detainees. Then the four women who had been raped were also fined 500 kyat each.

Forced Marriage. Marriage is sometimes forced upon women, especially in conflict areas, when a Burmese officer takes fancy to a local girl or woman and demands her in marriage. Sometimes the woman's family or community will encourage her to marry if they are afraid of the repercussions of her refusal. Other times they may protest, but the women are taken away by the military and forced to marry anyway. In other cases, village leaders will try to arrange for the marriage between a woman and a man who has raped her in an attempt to 'normalise' the situation.

Others have testified that there is a policy of encouraging soldiers to marry ethnic nationality women. They are promised monetary awards or promotions, the scale of which depends on the education and social rank of the woman. This is significant for two reasons. One is that because the ethnicity of children is most often determined by that of their fathers, marriage between Burman soldiers and ethnic nationality women contributes to the military's programme of Burmanisation in ethnic regions. Also significant is that because soldiers are looking for marriage for promotion or profit, marriages end when troops are rotated out of the area. Women are then left behind with children and no compensation from the fathers.

Final Note: A Cause for Hope

Despite the extreme oppression that indigenous groups in Burma are subject to, there is still cause for hope. The growing commitment to human rights and democratic process amongst many ethnic groups has positive implications for the future of these communities. Local communities have found ways to continue their resistance to the SPDC, often using non-violent means. Their capacity to document abuses and smuggle such information to exiled groups

is one such means. So too is the growing co-operation between ethnic groups, and between ethnic groups and the democratic opposition. This closer co-operation and process of coalition building, while flawed, is a definite stride forward in the struggle against the SPDC. (Until a decade ago, it was not uncommon to see ethnic armies pitting their resources against each other instead of directing them against the greater enemy). Another development that must be supported is the work done on behalf of peace education and on behalf of building negotiating and peaceful conflict resolution capacities amongst ethnic groups. Therefore the increasing participation of Burma's ethnic groups in international forums and in lobbying activities to raise international awareness and support is essential.

Notes

1 The junta changed the name of the country from 'Burma' to 'Myanmar' nearly a decade ago. However, this change is not recognised by the democracy movement. The name was changed without consulting the country's citizens. Myanmar is also considered a chauvinistic name by many ethnic groups.

2 Abbreviations used:

KNU:	Karen National Union.
DKBA:	Democratic Karen Buddhist Army (pro-junta militia).
SPDC:	State Peace and Development Council (the junta).
NLD:	National League for Democracy (largest democratic party).
KNLA:	Karen National Liberation Army.
ARNO:	Arakan Rohingya National Organisation.
CNF:	Chin National Front.
UNHCR:	United Nations High Commission for Refugees.
SSA:	Shan State Army.

Sources

Large portions of this report are excerpted from the following Altsean-Burma publications:

REPORT CARD: *Looming Crackdown in Burma.* A5, 56 pp. Bangkok, Sep. 1999.
REPORT CARD: *Burma: New Hope, Old Reality.* A5, 76 pp. Bangkok, Jan. 2000.
SPECIAL BRIEFING: *Women's Report Card on Burma.* A5, 28 pp. Bangkok, April 2000.

NAGALIM[1]

The India-Nagalim peace process has faced many setbacks in the past 12 months and as a result the peace talks have come to a standstill. In July 1999, Kaushal Swaraj resigned as the Special Emissary of the Prime Minister of India, A. P. Vajpayee, to the peace talks. According to Kaushal Swaraj, the Indian Prime Minister backtracked on his assurance that the cease-fire would not be subject to territorial limits. India has repeatedly failed to respond to the Naga team's proposal on substantive issues that was put forward in March 1999. Now that Th. Muivah, the leader of the Naga peace team, has been imprisoned in Thailand since January the 19th 2000, the peace talks have been postponed indefinitely.

This article presents an update on the implementation of the cease-fire with a short review of the peace dialogue.

Violation of the Cease Fire

No major outbreak of fighting has been reported between the National Socialist Council (NSCN-IM) and Indian security forces in the past 12 months. However, civilian deaths at the hands of 'revolutionary commandos' and minor encounters and uncertainties over the future of the cease-fire have repeatedly shattered this relative peace. Many Naga civilians have been attacked and killed by Kukis commandos aided and abetted by the Indian security forces. In one such Kukis attack, every Naga passenger was pulled off a bus travelling between Imphal, the State capital of Manipur and Nongdam, where they were shot at point blank range killing seven instantly and leaving two others in a critical condition (The Assam Tribune 02-06-1999). Another underground group, the Meitei based United National Liberation Front (UNLF) killed two Naga villagers in Manipur on the 17th of July1999 as a follow up to its ultimatum that the Anal Nagas must declare themselves to be Meiteis. The UNLF tortured many more Naga villagers and killed three NSCN cadres. In the follow-up operation, Indian security forces arrested six NSCN cadres, killed two KYKL (Kanglei Yawol Kana Lup), who were believed to be NSCN allies, and rescued a UNLF cadre who had been detained by the KYKL (The Assam Tribune 03-08-1999; for more information see the North Eastern Sun 04-08-1999).

The NSCN (I-M) has called for the immediate release of 17 of its cadres detained by the Indian security forces since November 1999 (The Telegraph 07-01-00). On the other hand, the NSCN (I-M) has been accused of carrying out ambushes, one on the 27th of July 1999 in Assam in which eight security

JC 279

men were killed, and the other on May the 5th 2000, in which six soldiers were killed near Gauhati (Associated Press, 27-07-1999 and 19-05-2000). The NSCN has also been accused of carrying out the ambush on the convoy of the Nagaland State Chief Minister, S.C Jamir, on November the 29th 1999 when two guards were killed.

The implementation of the Cease-fire Agreement between the NSCN (I-M) and the Government of India has from the beginning been dogged by conflicting interpretations of the Cease-fire Ground Rules, and differences over the cease-fire coverage area. Indian security forces have interpreted the Ground Rules in contradictory ways when it comes to dealing with 'criminal' elements. Some units of the Indian forces have openly fought alongside the Kaplang faction against the NSCN (I-M). Many leading members of the Kaplang faction, a major ally of the UNLF, are said to be on the payroll of Nagaland State Chief Minister S.C. Jamir, often operating alongside under-cover state agents. The Kaplang faction is credited with killing at least 12 members of NSCN (I-M) in the past 12 months. On the other hand, about 30 of its cadres including its General Secretary Dally Mungro, have been killed by the NSCN (I-M) in the same period. The Nagaland State Government run by S.C. Jamir is at present "under investigation" for funding the Kaplang faction (The Indian Express 01-07-1999).

Geographical Coverage of the Cease-fire

India has obviously remained deliberately ambiguous on the cease-fire coverage area. The text of the Cease-fire Agreement simply says that "it has been mutually decided to cease-fire between the government of India and the National Socialist Council of Nagaland". Thus, the focus of the Agreement is on wherever the NSCN army has been fighting against the Indian army, and not limited to the territory of a state. In other words, the Cease-fire Agreement applies not only to the territory of Nagaland State but to all Naga inhabited areas in India (which are at present divided up into four states) where the two armies have been fighting. In October 1998, speaking for the Prime Minister of India, Kaushal Swaraj asserted that the cease-fire is between India and the NSCN, and that it therefore applies to wherever they are and is not confined to the territorial limits of the state of Nagaland (The Telegraph 24-07-1999 and 29-07-1999).

The Cease-fire Monitoring Mechanism

The office of the NSCN representative to the Cease-fire Monitoring Mechanism (MM) in Kohima was raided by heavily armed Assam Rifles on the 29th

of November 1999 the moment the news of the ambush on Chief Minister Jamir's convoy reached the city. It was an obvious attempt to blame the NSCN for the ambush. Although no evidence against the NSCN could be found, the office was forcibly closed down on the 1st of December 1999. As a result the MM has completely stopped functioning and this has further strained relations between the opposing armies as they try to maintain the fragile cease-fire. They now face the increased danger of accidental encounters since they are no longer linked by a direct line of communication. There are many loopholes in the way the MM works, and when it is revived it will have to be overhauled so that it can serve the peace process effectively.

Negotiations for a Political Settlement of the Conflict

Six rounds of talks have been held since the cease-fire began in August 1997. There were no peace talks in the first 10 months because of the political instability in India. However, even when the peace teams met around the negotiation table the Indian team was not sufficiently prepared for discussing substantive issues. The Nagas have been patient with these delays. In March 1999, in the Amsterdam round of talks, the Naga peace team presented proposals on many of the substantive issues, but so far the Indian government has not responded to them. Hindu hardliners, starting with L.K.Advani, the Indian Home Minister in the ruling party, want to continue the military occupation of Nagalim. Faced with such constant obstructions, other Indian leaders who, as a rule are largely ignorant of the Naga issue, are scared of entering into serious negotiations.

To make matters worse, the NSCN leader Th. Muivah was arrested at Bangkok Airport for possessing a fake passport on January the 19th 2000. He came to Bangkok to meet leading members of the Naga civil society for the next round of negotiations with the representatives of the Prime Minister of India which was scheduled to take place between the 30th of January and the 2nd of February in Amsterdam. On the 26th of January, while released on bail, Muivah went to the Hat Yai airport with an illegal passport to leave for the three day high level negotiations with the Indian government in the Netherlands. But once more he was detained at the airport and on the 30th of January he was sentenced to jail for one year for possessing an invalid passport.

Muivah's arrest was immediately followed by insinuating stories about the Nagas and Muivah in the national and regional media in an obvious attempt to create an atmosphere hostile towards the Naga people and as a way of prolonging Muivah's detention. It is believed that Indian government agents are behind this move. Furthermore, according to information recently ob-

J- 281

tained from reliable sources, it is very likely that Indian government agents also had a hand in the arrest of Th. Muivah. And so far, appeals from Indian intellectuals and NGO communities to the Government of India to intervene on behalf of Muivah's early release, have gone unheeded.

The purpose and the circumstances that led to Muivah's travelling under an assumed name have received sympathy and support from the human rights NGO communities in Thailand. Leaders and activists have united to organise Muivah's legal and social defence. In the latest hearing of Muivah's case on the 25th of May 2000, several international observers including Senator John Nimrod from Illinois, USA were present at court.

The Naga civil society organisations have come together to initiate a people-to-people dialogue in India to bring fresh ideas to the peace process. A large group of Nagas drawn from different walks of life made a 'Journey of Conscience' to Delhi on the 29th of January 2000, where they interacted with NGO communities and other members of the public for three days. Since then small group interactions have taken placed in several Indian cities and more are planned. The Naga Peoples' Movement for Human Rights (NPMHR), and The Other Media, Delhi are the main organisers of this initiative.

Notes

1 Nagalim means 'Naga ancestral land' and is the term the Nagas agreed to use when referring to the land they have traditionally lived in. It therefore encompasses all Naga inhabited areas, both in India and Burma and replaces the term 'Nagaland' which had been formerly used, and which is also the name the Indian government gave to the Union State it created in a limited part of Nagalim in 1963.

Countries covered in this issue: Bangladesh, Nepal, India, Sri Lanka

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SOUTH ASIA

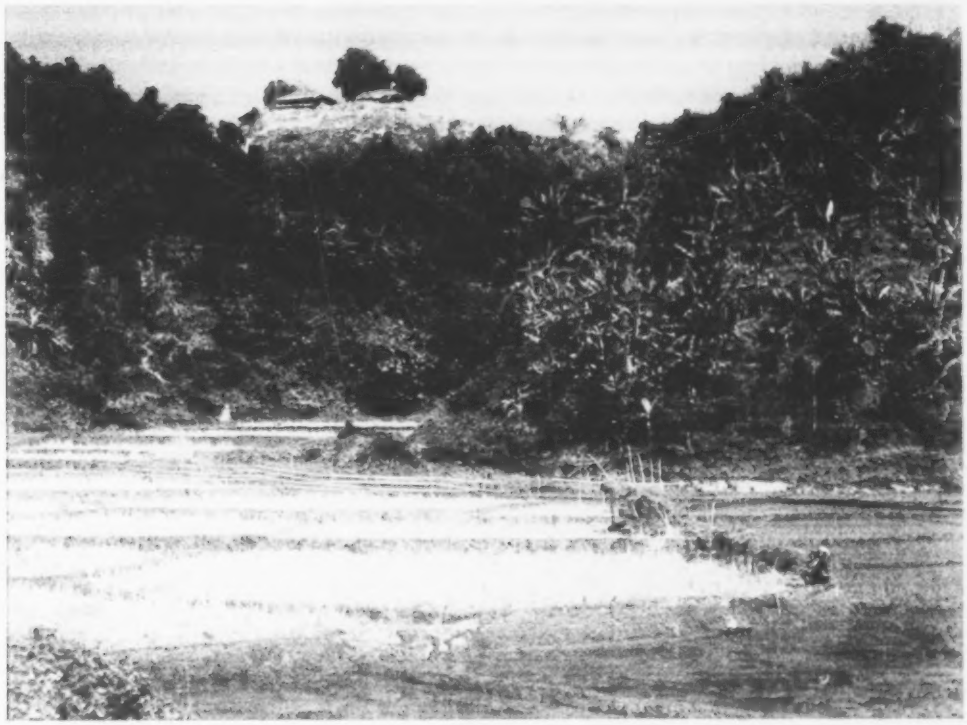
BANGLADESH

Chittagong Hill Tracts

A peace agreement signed in December 1997 between the government and the Jana Samhati Samiti (JSS[1]) has been largely instrumental in normalising the situation in the Chittagong Hill Tracts (CHT). However, two decades of mass killings, rape, unlawful detention and torture have left their mark on the indigenous Jummas, and there is an urgent need for effective measures to develop trust and confidence in the sincerity of the government's commitment to the peace process.

One of the key factors that is hindering this process is the continued presence of the armed forces. This is in direct contravention of the 1997 Accord which stipulates that all army camps should be withdrawn from the Hill Tracts with the exception of the Border Security Force (BDR) and the six permanent army establishments (one in each of the three district headquarters, and at Alikadam, Dighinala and Ruma). There are an estimated 500 'temporary' army camps in the CHT, of which some 32 have been withdrawn. The others remain and there are no indications of when they too will be withdrawn from the CHT. The military continues to exercise considerable power and influence in the Hill Tracts, including in the sphere of civil administration - an area outside the purview of the armed forces in most democratic countries.

The 1973 executive order which provides the formal basis for the militarisation of the CHT remains in force, and has not been annulled or revoked. If one takes into consideration the fact that the Hill Tracts is an area of 5,089 square miles (approximately 13,295 square kilometres), with 974,445 inhabitants, out of which 536,231 are indigenous Jummas (according to the 1994 census) then, given the present circumstances, the policy decision to retain a large number of military and paramilitary forces in the Hill Tracts, appears excessive and unjustifiable under any circumstances. And this is especially the case in an impoverished country like Bangladesh that is faced with basic problems such as a lack of drinking water, malnutrition, high infant mortality, and illiteracy. This also indicates the emphasis placed on the use of institutionalised force in the CHT, and continues to cast a shadow over the peace process which is currently underway in the region.



Still not withdrawn: Army camp overlooking rice fields of a Chakma community, January 1999 (Foto: IWGIA Archive).

Implementation of the Peace Accord

Over two years have gone by since the Peace Accord was signed, and despite the formation of a committee for its implementation, the implementation process has been markedly slow. In fact, in its report on the implementation of the CHT agreement (February 2000), the JSS describes the process as having come to a standstill.

The main strength of the Accord is that it establishes the modalities for indigenous self-rule in the CHT through a three-tiered approach encompassing a ministry at the central level, one main council at the regional level, and three councils at the district level. However, although these bodies are currently operational, in real terms their powers and authority are circumvented and their participation in the decision-taking and policy-making sphere remain limited. In the past year or so, some legislative measures have been taken to implement the Accord, but the enabling legislation has not been put into place and the Accord continues to be implemented in name only, without any concrete measures for putting its provisions into practice.

Hill District Councils. The Peace Accord strengthens the power base of the three Hill District Councils (HDC) which were formed in 1989 and substantially increases what lies under their authority. However key areas under their control and management such as land and natural resources, environmental protection, development, health, law and order, fisheries, tourism, local commerce and industries, business and *jhum* cultivation (swidden farming), among others, have not been transferred to the HDCs. They remain in the hands of government officials e.g., the Deputy Commissioner, etc. There are also reports of land alienation by the district authorities in clear violation of the HDC Acts (as amended) which require consultation with the relevant HDC and its consent before any acquisition or transfer of lands can be made.

Regional Council. The Accord provides for the establishment of a Regional Council with co-ordinating and supervisory authority over the three Hill District Councils, the police and civil administration, the CHT Development Board, NGOs active in the CHT, disaster relief and heavy industries. The Regional Council also has a major role in legislative matters, namely the right to be consulted prior to any law being adopted which may affect the CHT.

In May 1999, an interim Regional Council was formed with the JSS leader, Mr.Shantu Larma as Chairperson. Although it is currently functional, the Regional Council has not yet been fully empowered and many of its powers and furctions remain in the hands of the district administration including those relating to land and development matters. For instance, the CHT Development Board which is the most important development institution in the region with full control and management over all development projects including funding, remains outside the authority of the Regional Council.

Ministry for CHT Affairs. As specified in the Accord, a ministry for CHT affairs (MICHITA) was established in 1998, with the Member of Parliament for Khagrachari, Mr. Kalpa Ranjan Chakma, being the minister. The ministry has overall supervisory and executive authority over the regional and district bodies including the authority to allocate funds. It is to function with the participation of an advisory committee composed of the three traditional Rajas, a representative of the Regional Council Chairperson, the three Hill District Council chairpersons and three non-Jumma representatives. However, two years after the ministry was set up, the advisory committee has still not been formed.

Land Commission. The Accord also provides for the establishment of a commission on land to adjudicate land claims under the leadership of a retired judge. Although land is one of the most crucial issues in the CHT, and many of the outstanding issues are related to this crucial question, the government has yet to constitute this commission.

In addition to these matters, another grave cause for concern is the internecine feud between the JSS and the United Peoples Democratic Front (UPDF). The UPDF does not believe that the peace agreement meets the indigenous Jummas' demands either for self-determination or for full regional autonomy. It has been engaged in anti-Accord activities including demonstrations. However, the rivalry between the two parties has accelerated in the past year or so and both the JSS and the UPDF are reported to have been involved in unlawful killings, abductions, intimidation and harassment of members of the rival party. Earlier this year, there was news of an agreement between the two parties, and an end to the violence. However, there continue to be reports of sporadic incidents indicating that the situation has not yet been fully resolved.

This inter-party struggle is particularly serious when considered in conjunction with the main opposition party's - the Bangladesh Nationalist Party (BNP) - outspoken antagonism towards the Accord and their vow to annul it if and when they return to power. This is somewhat ironic as it may be recalled that it was the BNP that initiated the round of talks with the JSS which culminated in the 1997 Accord.

Land and Forests

Land is a crucial issue in the Hill Tracts. The indigenous peoples have been dispossessed of their lands through various methods. These include development projects such as the Kaptai Dam which flooded over 40% of the CHT's arable land and caused the displacement of some 100,000 people, or the settlement policy which brought over 450,000 non-indigenous people into the CHT, or the transfer of indigenous lands to outsiders. To this day, the process of land alienation and dispossession continues, despite specific provisions in the Peace Accord and related legislation prohibiting the transfer, sale and acquisition of any land in the CHT without consultations with, and the consent of, the Hill District Councils.

In this context, the practice of creating and/or extending 'reserved forests' by government notification, thereby prohibiting the indigenous peoples from entering and using the forest and its resources, continues. Justified by the government as an environmental protection measure, this exercise creates

tree plantations of rubber, teak and other species which have a ready market and are therefore an attractive and easy source of revenue for the government. However, the social and economic costs to the indigenous peoples are immeasurable, as the forests are often their main source of cash income in addition to providing for their daily needs. Many people also live in these areas, often as a result of displacement. The indigenous peoples face imprisonment and/or penalties, as once a forest has been classified as 'reserved', entry to, use of and extraction from the forest and its resources becomes illegal and is punishable by imprisonment and/or a fine.

In 1992, 1996 and 1998, a series of such notifications were issued designating an area of nearly 220,000 acres as 'reserved forest'. Thousands of people are affected by this order, and the Committee for the Protection of Forest and Land Rights was formed in defence of their rights. A delegation met the minister of environment and forests, Sajeda Chowdhury, in August 1999 and demanded that the orders be revoked. Despite her assurances that the government's afforestation programmes would not be carried out if this meant evicting people, the issue has not been resolved and the notifications remain in effect. It is also relevant to recall that reserved forests do not come under the management and control of the Regional Council or the Hill District Councils, being specifically excluded from the latter's authority as are other strategic areas such as the Kaptai Lake, the satellite station, 'state' lands, etc.

Illegal logging is another major source of concern in the CHT. It continues unchecked with trucks carrying timber out of the CHT a common sight. The timber is classified as 'firewood' under a special permit, which allows it to be taken out of the CHT as the sale of firewood for domestic purposes is allowed. In this way thousands of cubic feet of timber are taken out of the CHT. This can only occur with the collusion of corrupt Forest Department officials and police and security forces, who have been described as "a Mafia style operation" by a local official. The environmental degradation in the CHT has reached alarming proportions and has caused the government to adopt an environmental management plan with the support of the UNDP, which is currently in progress.

In another development, a national newspaper reported that indigenous lands in Bandarban and Khagrachari are being leased out by the government to influential non-residents of the CHT, many of whom have close links to the government, to be used as rubber plantations (27th of October 1999, Prathom Alo, Dhaka). These lands were in use and were occupied by indigenous farmers, who are now landless and face poverty and hardship as a result of this

affair. Such a manoeuvre is also in direct contravention of the Accord and related legislation. Another issue that is causing concern is the activities of international companies including United Meridien Corporation who are prospecting for oil and gas in the CHT. The government is eager to exploit this potential source of revenue, and mining is to commence shortly. Within this context it is relevant to mention that the rights of the indigenous peoples to their ancestral lands must be taken into account, especially in view of the 1997 Peace Accord and related legislation. The Accord also provides for benefit sharing and for royalties to be paid to the Hill District Councils for mineral resources.

Refugees and the Internally Displaced

Between 1995 and 1997 approximately 70,000 Jumma refugees who had fled to neighbouring countries in order to escape the violence in the CHT, returned home within the framework of a negotiated agreement between themselves and the Bangladesh Government (9th of March 1997, GOB-Jumma Refugees Welfare Association Agreement). Although many of them have had their lands returned to them, some have been unable to claim them back as these lands are now in the possession of settler families from the plains who came into the CHT in the mid-70s, as mentioned earlier.

The government continues to provide rations and other assistance to the settlers, many of whom were actively involved in committing gross human rights abuses against the indigenous Jummas, in collaboration with the army and paramilitary forces - a contributory factor to the tension and unease in the region. Many settler families have indicated their willingness to leave the CHT and settle elsewhere in the country provided they are given adequate incentives and benefits (as was the case when they were brought into the CHT in the mid-70s). The European Community has offered its help, including financial assistance, in resettling the settlers elsewhere on a voluntary basis. However, the government has been reluctant to take up this offer.

The situation of the thousands of people who were displaced during the conflict remains grave and there continue to be reports of food shortages in some areas, together with outbreaks of malaria and dysentery. As stipulated under the Accord, the internally displaced people are to be rehabilitated and a task force has been created for this purpose. The task force has listed some 130,472 families as being internally displaced. However, this list has created controversy since some 48,452 non-indigenous settler families have been included. The JSS believes that only indigenous families who were displaced between 1975 and 1992 should be included in this list as per the Accord. To

J. 289

do otherwise would have serious repercussions on the land rights of the indigenous Jummas, many of whom have been displaced mainly as a result of the same settlement programme. As a JSS representative at the 1999 session of the UN Working Group on Indigenous Populations made clear, "This may lead to the legal recognition of these settlers as residents of the CHT and as legal owners of lands which rightfully belong to the indigenous peoples."[2]

Human Rights Violations

On the 16th of October 1999, in what was a grim reminder of earlier times, there was a reprisal attack on indigenous Jummas at the market town of Babuchara Bazaar, Dighinala Thana in Khagrachari Hill District. In what has unfortunately become a common scenario, a Jumma woman was harassed by a member of the armed forces. When some students came to her aid, an army contingent rushed to the market place and, aided by some 150 Bengali settlers, attacked the unarmed Jummas. Three people were killed and some 75 persons were injured. The settlers continued their reprisal attack and set some nearby houses on fire, ransacked the Benuban Buddhist temple, destroyed some Buddha statues and attacked some Buddhist monks.[3] The government has set up an inquiry into the incident but no report has yet been published. Given the government's past record of conducting enquiries but not publishing the findings - as was the case in the enquiry into the abduction of Kalpana Chakma, a Jumma student leader whose whereabouts continue to be unknown - the indigenous people remain somewhat sceptical about the Babuchara inquiry. It is to be hoped that the government will conduct a full and fair enquiry into the incident, and bring those responsible to justice.

Conclusion

The 1997 Accord has initiated a peace process in the CHT, and in 1999, Sheikh Hasina received the UNESCO peace award for her role in agreeing to the Peace Accord. It is to be hoped that this will encourage the government and its agencies to take the necessary measures to ensure the full implementation of the Peace Accord and to bring about a sustained and durable peace in the Hill Tracts region.

Notes

1 The JSS is the indigenous political party which has been leading the indigenous Jummas' struggle for regional autonomy for over 20 years. The 1997 agreement is the culmination of many rounds of negotiations between successive governments and the JSS.

290

2 Statement by Rupayan Dewan, CHT Regional Council Member, UN WGIP, July 1999, Geneva.
3 See Amnesty International Report: Human Rights in the Chittagong Hill Tracts (ASA 13/01/00) for details.

The Garos

The Garos are the inhabitants of the Garo Hills of Meghalaya State in Northeast India and the adjacent areas across the border, in Greater Mymensingh and the Sylhet district in northeastern Bangladesh, where they live both in the hills and the lowlands. The Garos prefer to call themselves "A'chik" or "A'chik Mandi" and, as such, the appropriate term for their land will be "A'chik A'song" or "A'chik land". The Garo word "A'chik" means "hills" and "Mandi" means "the people". So the Garos call themselves simply "hill people". The Garos population in Bangladesh is approximately 120,000. But the Government of Bangladesh's 1991 census report gives a figure of only 68,210.

The Garos are matrilineal, which means that descent is traced through the mother only. All property belongs to the women, it remains with her clan and is passed on from mother to daughter.

Garo women at a rally in the capital Dhaka (Photo: Sanjeeb Drong).

J. 291

The Garo communities in Bangladesh are coming under ever greater pressure. They are losing their lands to Bengali land grabbers, their language and culture are not recognised by the state, and although they have lived for centuries in their ancestral lands - that are now divided by an international boundary - they do not enjoy the full rights of citizenship in Bangladesh, being treated as second-class citizens. The case described below illustrates how poorly protected the Garos' rights are, and how forced dispossession by Bengalis is met by government officials with at best indifference, and at worst outright support of the culprits.

The Chailtachara Incident

On the 18th of December 1999, a group of 50 to 60 Bengali Muslim assailants armed with various weapons attacked the Chailtachara Garo village in the Moulvibazar district. There were 20 families in the village with 168 acres of hill land and forest. At first they hit the Headman Gregory Nokrek before stabbing and seriously wounding the 60 year old. Then the assailants ordered the Headman to flee if he want to save his life. Faced with this situation Gregory Nokrek ran away to the forest. Then the assailants plundered and destroyed the Headman's houses. After looting the village the assailants attacked and carried off the Headman's wife, his son's wife, his brother's daughter and a grandson of one year. The Headman Gregory Nokrek was the target of the Muslim assailants because they obviously wanted to get hold of the Chailtachara village lands and forest by force. Allegedly, influential politicians and the chairman of the local Union Council, who are Bengali Muslims, encouraged and helped the assailants attack the village.

The Chailtachara Garo village lies in a remote hill area. Headman Gregory Nokrek could not get any help there. Under such circumstances Gregory Nokrek and others ran to the police station at Kulaura to try to rescue his wife and three relatives. But the Officer-in-Charge (OC) of the police station did not accept the case and did not take any steps to help them. The OC told them he would come to visit the village the next day, but he never showed up. The local tribal leaders went to the police station in order to file a case. The OC abused them and they understood that this OC would not do anything to help them. Then the headman went to Mymensingh to the Chairman of the Tribal Welfare Association, who was a former Member of the Parliament. He reported the facts to the Home Minister and then the case was taken up.

After filing a report at the police station, the assailants threatened to kill the Headman and the other villagers. Headman Gregory Nokrek was therefore forced to leave the village and seek shelter and help in the capital Dhaka.

He visited newspaper offices and his story was published in leading national newspapers. Intellectuals, writers, artists and influential individuals expressed their concern about the incident and they demanded that the assailants be arrested and that the Garos be reinstated on their own land. A group of journalists visited the area and they also published their reports and editorials in the newspapers. Despite all this, the Headman was unable to find his wife and relatives, and the indigenous communities continue to be worried that their Muslim assailants will illegally occupy Chailtachara village in the near future. And they have every reason to be afraid since Garo and Khasi villages have already been occupied by the Bengalis in the past. The government does not yet have a policy or arrangements to protect the indigenous peoples' villages.

Lack of Organizing

However, the Garos of Bangladesh have no political organisation that can protect their rights. They attempted to make the Tribal Welfare Association that was established with the support of the government in 1977 look after their rights. But all that this attempt proved was that the Tribal Welfare Association was a mostly pro-government organisation and that it never supported and defended the demands of the Garo people. But even without their own organisation, Garo leaders and representatives joined the Bangladesh Adivasi National Co-ordinating Council in organising the International Day of the World's Indigenous Peoples on the 9th of August 1999 in Dhaka. About 2000 indigenous representatives from different parts of Bangladesh were present at the meeting. They made a declaration with recommendations on behalf of the 2 million indigenous peoples of Bangladesh that included demands concerning, among others, constitutional amendments, the ratification of ILO Convention 169, the recognition of communal land of forest rights, measures to improve education, and provisions for self-government of indigenous peoples. The declaration was submitted August 1999, but the government has not yet responded in any way.

NEPAL

List of 61 Indigenous Peoples/Nationalities Approved

The Aadivasi/Janajati peoples of Nepal have been sticking determinedly to the position that their identity as indigenous peoples is part and parcel of their struggle for autonomy and self-determination. Indigenous peoples have there-

fore been demanding and struggling for the recognition of their identities as such. The list of 61 Janajati communities was formally submitted to the cabinet for its approval in 1995. There was strong resistance to raising the issue of definition from conservative politicians, bureaucrats, Hindu fundamentalists, mainstream academics and the pro-Hindu media. But through the continuous lobbying and sensitisation of the general public and the government, the indigenous peoples succeeded in being recognised. His Majesty's Government of Nepal, by the decision of the cabinet of ministers, approved the list of 61 nationalities on the 16th of April of 1999. They are as follows divided into four groups as follows: a) Mountain - Barah Gaunle, Bhutia, Byansi, Chhairotan, Chintan, Dolpo, Larke, Lhomi, Lhopa, Manamge, Marphali, Mugali, Siyar, Shepa, Syantan, Tangbe, Thakali, Thhintan, Thundam, Topkegola, Wallung; b) Hill - Bankaria, Baramo, Bhujel, Chepang, Chhantyal, Dura, Fri, Gurung, Hayu, Hyolmo, Jirel, Kushbadia, Kusunda, Lepcha, Limbu, Magar, Newar, Pahari, Rai, Sunuwar, Surel, Tamang, Thami: c) Inner Terai - Bote, Danuwar, Darai, Kumal, Manjhi, Raji, Raute and; d) Terai - Dhanuk, Dhimal, Gangai, Jhangad, Kisan, Meche, Rajbanshi, Satar, Tajpuria, and Tharu.

Continuous Struggle for Language Rights

Nepal is a multi-lingual country. There are, according to the Summer Institute of Linguists, 125 languages spoken by the various communities. The languages of Kusunda, Dura and Bhujel have already completely disappeared and about 20 languages are in the process of becoming extinct. The indigenous peoples of Nepal are therefore very concerned about their language heritage. They feel that their languages are the vehicles of transmission for their identities and cultures, which are in danger of being lost with no hope of recovering them. It was in such a context that, following the demands of various language communities, Kathmandu Metropolitan City decided to use the Bhasha Language on the 25th of August 1997 in addition to the prevailing Nepali (*khas*) language. And on the 18th and 25th of November 1997 respectively, the Dhanusha District Development Committee and the Rajbiraj Municipality each adopted the Maithili language as their official languages, also in addition to *khas*. But although the constitution of Nepal recognises every language spoken as a mother tongue in the various parts of the country as a national language, and although the Local Autonomy Act-2055 deputes the right to the local bodies - so called self-governments - to use, preserve and promote local languages, on June the 1st 1999 the Supreme court of Nepal issued a *certiorari* not to use local languages in local government offices. It declared the decisions to use indigenous languages in the offices of Kathmandu

Metropolitan City, the Rajbiraj Municipality and the Dhanusha District Development Committee to be unconstitutional and illegal. The court's verdict raised a serious question about the jurisdiction of the law that states that mother tongues should be recognised as national languages. It also left the various language communities in Nepal with only the option of challenging the constitutional provisions relating to the use of their languages. To protest against the court's verdict the language communities of indigenous peoples organised rallies, demonstrations, posters and banners, mass-meetings, corner-meetings, lantern processions, musical processions, picketing, marching around cities with black tapes on their mouths throughout the country and finally the 'Kathmandu valley wide general strike' on September the 15th 1999 (30th Bhadra, 2056). Subsequently the Nepal Federation of Nationalities (NEFEN) organised the first 'National Conference on Linguistic Rights' with the help of the International Work Group for Indigenous Affairs from March the 16th to 17th 2000 (Chaitra 3rd and 4th 2056), where 44 language communities and human rights organisations gathered together in support of the cause of language struggle. They passed a 'National Declaration on Linguistic Rights' based on the principle that "no language is either small or great, all are equal, and all the language communities have equal rights". In addition, the conference refused to accept the Supreme Court's decision on language and formed a Languages Co-ordinating and Monitoring Committee to follow up the developments. From now on the 1st of June (18 Jesth) will be observed as a 'Black Day for the Supreme Court'.

More Indigenous Peoples Organised

There are many indigenous communities whose total population may not number more than ten thousand. These small communities have now co-ordinated themselves and have founded the following organisations: the Kisan Community Association; the Rong Sejung Thi Lepcha Association; the Nepal Santhal Association; the Bhrahmu Association; the Mudiyar Association; the Bote Association; the Singsa Welfare Association; the Tajpuriya Society Council and; the Bhujel Association. It is believed that the populations of the Kisan, Bote, Brahmu, Lepcha, Mudiyari and Singsa number less than 500. These new organisations joined the Nepal Federation of Nationalities whose membership thereby increased to 31 in 1999.

Human Rights Commission Delayed

Since the 1990 Peoples' Movement and the formulation of the New Constitution to legitimise the parliamentary system, Nepal has claimed to be a demo-

cratic country and to be committed to implementing human rights. The parliament passed a Human Rights Commission Act-2053 in 1997. The Act, however, is very weak and powers have not been given to the proposed Commission to question all cases. Its establishment seems to be no more than window dressing for the benefit of the international community. Despite pressure from human rights organisations and indigenous organisations, the government has not yet been willing to form even the Human Rights Commission. Therefore, human rights activists and indigenous peoples are continuing to agitate in order to maintain pressure on the government to form the Human Rights Commission.

Human Rights Violations

Indigenous peoples are facing increasing threats to their security and peace in their territories. In the past four years, groups engaged in what they call a People's War are waging an armed struggle against the government. Indigenous peoples' territories have therefore been militarised and occupied by armed paramilitary groups or the Danga Police. Recently the police razed a whole village in west Nepal and three children died in the fire. Hundreds more people were hurt, animals were killed and villagers' property was damaged and destroyed. In the name of security and law and order, thousands of people have been killed and hundreds have disappeared in police custody. An indigenous leader of NEFEN was held in jail without trial and without charges for about nine months, despite three court orders to release him.

Campaign for Constitutional Amendments

Indigenous peoples are now campaigning to amend the articles of the Constitution, laws and bylaws that impact on them. A national consultation supported by the Minority Rights Group International was organised to sensitise the political parties, lawmakers, intellectuals and various other sections of society. Regional consultations were also conducted. The consultations identified 18 articles of the Constitution, 34 special laws and some common laws that adversely affect the rights and interests of indigenous peoples / nationalities. They need to be amended and a number of new provisions need to be included.

Bill to Form Academy of Nationalities Still not Passed

Because the necessary bill was not passed in parliament, the government failed to create the National Academy for Nationalities which indigenous people / nationalities have been demanding. The government had committed itself to

doing so in 1999 but it did not table the bill at the last session of the Parliament. The bill to form the National Academy (Rastriya Janajati Utthan Pratisthan) was simply thrown into the pigeonholes of members of parliament. It is worth reminding ourselves that over the last six years, each of the seven governments, whether a majority or coalition administration, promised to create the National Academy for Nationalities. But all of them collapsed without having done any such thing.

Indigenous Bondage Labourers Stand up for their Rights

In 1926 slavery was declared illegal in Nepal, and finally, after the introduction of democracy in 1991, debt bondage labour was abolished. Unfortunately debt bondage is still a widespread practice, especially in remote districts of Nepal. Several anti-slavery labour organisations have estimated the number of bondage labourers in southwest Nepal to be between 50,000 and 70,000.

In southwest Nepal, debt labourers are called Kamaiyas, and they are probably among the world's poorest people. Nearly all Kamaiyas belong to an indigenous people, the Tharu, who for generations have been victims of the debt bondage system. Several Kamaiya families have been bonded for up to seven generations. The oppression was intensified when mountain dwellers moved south to the lowlands, also called the Terai, and, legally or not, acquired large areas of fertile land. This resulted in the Tharu becoming landless and being forced into the position of Kamaiyas.

The way the Kamaiya system usually works is that a family has borrowed money from the landowner and is obliged to pay it back by way of the family's labour. Most often the wages amount to between 10 cents and half a US dollar a day for the whole family, paid out in rice. This means that it is impossible for the family to pay off the loan or to have sufficient money or rice for everyday use, which again means that they are forced to borrow more money. The family economy is especially vulnerable at times of illness or during religious festivals. A Kamaiya family typically works from 5am to 8pm, which means that even if they themselves have a small plot of land to cultivate, they are not able to find the time to do so. Their children have no possibility of going to school because they have to tend the cattle all day. In Nepal a minimum wage of between 75 cents and one dollar exists, depending on the district; however, this minimum wage is not enforced for the poorest people.

Nonetheless the Tharu are fighting for their rights. On May the 1st of this year, 19 Kamaiyas claimed that that their landowner had not paid their wages for more than a year, and that their daily wages of about 12 cents was too small

compared to the minimum wages prescribed by law. The landowner, a former education minister of Nepal, responded by letting some other landowner's Kamaiyas be beaten thoroughly and by tearing down the homes of four Kamaiya families. It is an established fact that Shiv Raj Panth, the landowner - who incidentally was a former forest minister as well - acquired, as a result of his actions, at least 250 extra hectares of land where his 125 Kamaiys are now working.

Following this incident, 20 Kamaiyas went to the mayor of Geta village, in the Kailali district, and filed a complaint. Subsequently the mayor, who is well acquainted with the law, called a meeting of the landowner, the Kamaiyas and eight local anti-slavery organisations at the city hall on May the 10th. In the meantime the news had spread across the whole country. All the major newspapers carried the story on the front page, and Nepal BBC Radio carried several feature stories. Nepal TV and several journalists also attended the meeting. Unfortunately the landowner did not appear at the meeting, but the mayor, the Kamaiyas and the organisations agreed to support the Kamaiyas by appointing a joint committee whose task it would be to register the case with the district office.

A large group of 100 Kamaiyas and activists went to the district offices to register the case. However, they were not received with any degree of goodwill. There are indications that the landowner and several other government employees had pressured the district office to reject the Kamaiyas and their organisations. The police were in place and proceeded to destroy a film from a camera and to threaten several of the organisation members with arrests.

On May the 14th large demonstrations took place with the participation of up to 7000 Kamaiyas and peasants, some of them from the two surrounding districts as well. Dilli Chaudhary, the president of BASE (a Tharu organisation of 30,000 members) announced that the demonstrators would remain in place until the case was registered. The village committees of BASE, as well as some women's groups, have started collecting rice for the strikers to eat.

This is where the case stands at present - a law that is not enforced, an administrator who aids and abets the exploitation of the poor by the rich, and a police force that is ready to beat up those who wants to register a complaint. In Nepal, as in many other nations around the world, human rights are weak. The unusual thing about Nepal is that the media are free and uncensored, and that they actually do write about the unlawfulness taking place. The sad thing is that the Nepalese Government apparently does not care that much.

INDIA

Mizoram

The creation of the Mizo National Front (MNF) in Mizoram, similar to the Naga National Council in Nagaland, revived feelings of integrity and identity amongst the Mizos, and accordingly the MNF demanded that Mizoram be allowed to secede from India. The MNF turned itself into an underground movement in 1966, a fact which was instrumental in statehood being subsequently conferred on Mizoram on February the 20th 1987. The MNF ceased their underground activities once the Mizo Accord was signed on June the 30th 1986. After two decades of armed conflict, Mizoram enjoyed a period of peace until it became overshadowed by the recent problems relating to the Chakma and Bru minority groups.

The Chakmas are immigrants from the Chittagong Hill Tracts of Bangladesh. The influx of Chakmas started before India's independence, but became a major problem only after partition and the subsequent displacement of many Chakmas by the construction of the Kaptai dam in 1964. The immigrant Chakmas now lay claim to the land they have been inhabiting inside Mizoram and, at different points in time, they have demanded a separate district and Union Territory status. Article 244 (2) of the Constitution of India provides for a Sixth Schedule, giving some protection to the so-called scheduled tribes and their lands. The Sixth Schedule lists tribal areas in three parts. Part three includes the Chakma district, the Mara district and the Lai district in the southern part of Mizoram. Because of the Constitutional provision, the Chakmas are confident that their claim to territorial possession will be upheld. But the majority of Mizos feel that the Chakmas are encroaching upon their ancestral territory. Moreover there are allegations that the Chakmas in Mizoram have political links with the refugee Chakmas in Arunachal Pradesh. And they are said to also have political connections with Chakma organisations in Bangladesh.

While the signing of the Mizo Accord in 1986 reduced tensions and violence, the Mizos now see their autonomy threatened by the demands of the Chakmas, and this has led to new conflicts. The Central Government's inimical attitude towards the problem only aggravated the situation.

Aside from the Chakmas, a good number of Bru (also called Reang) have lived in Mizoram for many decades. They settle mostly in the western part of Mizoram, in an area bordering Tripura. They used to lead a fairly a nomadic life, moving their settlements every four or five years. They are not consid-

JC 299

ered permanent residents by the Mizos, and they have not explicitly voiced aspirations for territorial possession or political autonomy in the past. However this has now changed. In 1996 the Brus demanded an autonomous council for themselves within Mizoram, resulting in riots between the Mizos and the Brus. In October 1996 about 42,000 Brus fled from Mizoram to adjoining North Tripura. The exodus continued throughout 1997. The Bru refugees took shelter mainly in the Kanchanpur subdivision of Tripura. Allegedly, the Bru insurgent group - called the Bru National Liberation Front (BNLF) - had at that time also been intimidating the Bru inhabitants of Mizoram to try to make them flee to Tripura and take shelter there. The alleged intention of the Bru militants was to ultimately carve out a Bru Territory in Tripura. The repatriation of these refugees has became a major problem both in Tripura and in Mizoram.

This situation was allegedly exploited by the Chakmas so that they could put forward their demands. Things became very tense and threatened the peace in Mizoram. But another conflict has interfered and somewhat diverted attention - the Hmar people's demand for recognition of their separate identity and a Hmar homeland (for background information on the Hmar conflict see the article below).

Hmar activists were made responsible for abduction of six employees of the North Eastern Electricity Power Corporation (NEEPCO), currently working on Tuirial Hydel Power Project in Mizoram, on March the 31st 2000. However, no organisation has claimed responsibility for this action. This event sent shockwaves throughout Mizoram, particularly because in January 2000 the Prime Minister declared Mizoram to be the most peaceful state in the Northeast.

The Brus have also recently intensified their activities by abducting two bus passengers from a Mizoram State transport bus on the Aizawl to Phaileng route. The bus was waylaid and set on fire on April the 15th 2000. This incident was closely followed by another case of abduction where a Sumo Taxi passenger was abducted on April the 19th 2000. The Bru National Liberation Front (BNLF), created in 1997 in the Kanchanpur subdivision of Tripura, is suspected of having had a hand in these incidents. In the case of the NEEPCO employees the abductors demanded 10 million rupees (ca. US$250,000) for their release, whereas the BNLF abductors demanded five million rupees.

In a recent statement the Chief Minister of Mizoram, Mr Zoramthanga, ruled out setting up a regional council for the Brus. He said that the Brus (Reangs) were originally from Tripura and had come to Mizoram in search of

Jhum (swidden farm) land. The Mizo Protection Force also issued a notice saying that if the abducted persons are not released soon, a 'Quit Mizoram' order will be issued to the Brus. The Young Mizo Association a powerful youth organisation, also made a definite note of the incidents.

Unlike other minority tribes in Mizoram who are demanding autonomy (such as the Hmars, the Lais and the Maras) neither the Brus nor the Chakmas are considered to be original inhabitants of the region, and therefore the majority of Mizos do not consider them to be indigenous people of Mizoram. The fact that they have enjoyed governmental protection in the past, including after India's independence, does not alter the situation. On the contrary, the Central Government's patronage of and its accommodative attitude towards the Brus and the Chakmas has led to Mizos feeling ill-disposed towards both it and towards Arian plains people in general. This may have been the reason for the failure of the Congress Party and the success of the MNF party in the last State Assembly elections held in late 1998.

The MNF, as guardian of Mizo interests, has promised 'better treatment' of the Chakma and the Brus problem. As soon as he assumed office the Chief Minister, Mr. Zoramthanga, reiterated his promise that the first major step he would take would be to abolish the Chakma District Council. So far this has not happened.

In general, the law and order situation in Mizoram has taken a downward turn in recent times. The Lais and the Maras are also demanding more autonomy for themselves, and Hmar underground groups have been reforming in order to resume their activities. All these factors as well as the complex connections between the different ethnic autonomy movements in North East India, have been threatening the peaceful atmosphere in Mizoram.

Many of the ills of the present day political situation in North East India as well as in the country as a whole can be attributed to the Central Government and to the State Government. The Central Government did not take 'cognisance' of the 'nationality' status of the numerous groups who were the original inhabitants of the different states of North East India. 'Nationality' here indicates nationality as a cultural and social category and does not have political connotations. Equally, the failure on the part of academicians to make proper distinctions between ethnic categories, ethnic groups and ethno-nations and nationalities has also resulted in the failure to understand the political, social and cultural realities of the people of North East India.

The Unresolved Issues of the Hmars

Mizoram is a multi-ethnic and pluralistic state comprising as many as 14 tribes with different languages and dialects. During the British rule, Mizoram was known as the Lushai Hills District which formed a part of Assam. In 1954, its name was changed to the Mizo Hills District. In 1966 after the secessionist movement under the Mizo National Front (MNF) arose, it was upgraded to the status of a centrally administered union territory. In 1987, it attained full statehood.

Of all the tribes in Mizoram, the Hmars are perhaps most exposed to the assimilation process of the Mizo, who are the majority indigenous people of Mizoram. As a result, there are two groups of Hmars, those who are completely assimilated and those who are only partially assimilated by Mizo culture. The first category of Hmars is satisfied to consider themselves Mizos. They have now totally forgotten even the Hmar language as well as their cultural ethos and values. On the other hand the partially assimilated Hmars, while they identify themselves as Mizos, are also fully aware of their distinct identity, traditions, customs and language. This is more the case among those Hmars living outside Mizoram. At school they must even take Hmar language as one of vernacular papers up to class XII. It is among this group of partially assimilated Hmars that the search for a separate identity has gained momentum.

It has never been the intention of Hmars living in and outside Mizoram to distance themselves from the mainstream of Mizo society. When the first political party, the Mizo Union was formed in 1946, all Hmars living in different parts of northeast India, particularly those in Manipur, opted for integration with Mizoram. As a matter of fact, the Hmars in Manipur boycotted the first Manipur general election of 1948 to join the 'Mizo Sarkar'. This never materialised because the Union leadership in Mizoram did not dare take any step which was likely to disturb the existing inter-state boundaries. Again, when the MNF started its independence movement in 1966, the Hmars in and outside Mizoram joined with the movement on the back of the promise of a 'Greater Mizoram', which meant the integration of all areas inhabited by Mizo in northeast India. Keeping this objective in view, the Mizo Integration Council (MIC) was formed in Manipur at the time of the talks between the MNF leadership and the Government of India. But when the Mizo accord was signed on the 30th of June 1996, no mention was made of integrating Hmar inhabited areas with Mizoram. The only redeeming feature of the accord was that the rights and privileges of the minorities in Mizoram as envis-

aged in the constitution should continue to be preserved and protected, and that their social and economic advancement should be ensured.

Disillusioned with all these false hopes, the Hmars in Mizoram began political consultations among themselves, and finally formed the Hmar People's Convention (HPC) in 1986. Since then this party has spearheaded the demand for the creation of an autonomous self-government covering north and northeast Mizoram. Because of the state government's inept handling of the situation, the HPC has, from April 1987 onwards, been compelled to wage an armed struggle for autonomy. The movement peaked in 1992 when the HPC set up clandestine links with Naga militants to co-ordinate guerrilla raids. This armed confrontation continued until the HPC representatives and the government of Mizoram mutually agreed to ministerial level talks in 1992. After having nine rounds of talks, the memorandum of settlement was signed at Aizawl, the capital of Mizoram on the 27th of July 1994. Some of the salient points of the agreement are given below:

1. On the question of the restoration of normality, the HPC agreed to undertake every necessary step to end underground activities within the agreed time frame. They would also return all underground personnel of the HPC to civic life, giving up their arms, ammunitions and equipment, as a way of abjuring violence and helping to restore normality.
2. The HPC was to take all necessary steps to amend its articles of association / constitution, so as to make them conform to the provisions of law.
3. The HPC agreed to undertake not to extend any support to the NSCN, the ULFA or any other such underground groups by supplying arms or providing protection or helping them in any other way.
4. For its part, the government of Mizoram agreed to take steps towards the relief and rehabilitation of all HPC underground personnel who gave up the struggle. They also agreed to make an ex gratia payment to the next of kin, heirs and dependants of HPC members killed during the insurgency.
5. With a view to satisfying the desires and aspirations of the Hmar community in Mizoram, the state government agreed to initiate measures to use the Hmar language as a medium of instruction up to the primary level. They also agreed to recognise the Hmar language as one of the major languages of the state of Mizoram.
6. The government of Mizoram also agreed to take steps to help promote and preserve Hmar culture.

303

7. To further the social, economic, cultural and educational development of the people in the north and northeastern parts of Mizoram, the government of Mizoram agreed to set up the Sinlung Hills Development Council that would cover an area to be specified and agreed upon by it and the HPC, by notification in the official gazette. A separate fund would be earmarked for schemes to be implemented in the area covered by the council.
8. Regarding political safeguard as available under the Sixth Schedule to the Constitution of India: the government of Mizoram would take immediate measures to include in the Scheduled (Tribal) Area of the Sixth Schedule an area to be specified which includes both areas demanded by the HPC, and other non-scheduled areas of Mizoram

Soon after signing the agreement, the state government and the HPC got bogged down in procedural wrangles over such matters as the demarcation of the so-called Council's boundaries. As a result of both internal divisions within the HPC leadership and the government's apathy, basic issues relating to the right of self-determination and autonomy have so far not been addressed. Even if the state assembly unanimously recommends scheduling the areas the HPC is demanding be included under the Sixth Schedule, the Central Government would not be able to rush the bill through a divided parliament. Two separate factions, each of them dissatisfied with the implementation of the process, have emerged out of the HPC. First, there is HPC (Democracy) which will be only be content when all those areas in Manipur, Mizoram and Assam inhabited by Hmar are integrated, and when a Hmar homeland is created. Then there is the Hmar Revolutionary Front (HRF), which has its base in Manipur. In the past the short-sighted state administration used excessive force as a counter-measure, a strategy which only worsened the situation and led the HPC to increase their political demands to nothing less than wanting statehood. What is now required is not another series of counter-offensives, but the speedy resolution of all current issues. The present MNF government is well placed to do this because of its past experience of guerrilla tactics.

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Uttar Pradesh

The Van Gujjars

The proposed Rajaji National Park, located in the Himalayan foothills in the northwest of Uttar Pradesh, is the first protected area in India for which a community forest management plan has been prepared. This follows the widespread acceptance, even by the Government of India, that the present legislation for the conservation of forests and their wildlife has not proved successful. An Environment and Forest Minister from each of two successive Governments has gone on record informing the Upper House of Parliament that this legislation is in the process of being changed. The changes will mean that the forest dwelling people and others who are dependent on forest produce can be included in the management and protection of forests.

The CFM plan is based on sustainable traditional systems of management and makes use of the Gujjars age-old traditional knowledge. According to the CFM plan the Gujjars will play a central part in the management of the forest and will be responsible for regenerating the forests, protecting their core areas and guarding against poaching and timber smuggling in an environmentally and economically sustainable way. The rights of other communities living on the periphery of the forests are also respected in the plan, which provides for the existence of a minor forest produce committee in its structure. This committee would participate in the establishing of norms for sharing non-timber produce among them. The Forest Department, police and NGO sectors would only be involved at the apex of the structure. They would monitor the programme and lend support in the execution of the policies decided by the Van Gujjars themselves. The Van Gujjars see the plan as a viable alternative for addressing their insecurity, as it would provide them with control over the land that they use and a more productive framework for their relationship with the Forest Department.

The concept of the CFM plan has made the forest officials desperate, as to date they have been wielding unaccountable power over forest dwelling communities. In the case of the proposed Rajaji National Park they had unleashed a reign of terror against the Van Gujjars. Assisted by RLEK the Van Gujjars approached the National Human Rights Commission (NHRC) in order to obtain redress. In March 1999 the NHRC declared that the Van Gujjars could not be deprived of their traditional grazing and lopping rights or be coerced to leave the forest by the Forest Department 'until their rights are legally deter-

J. 305

mined in accordance to law.' This decision is the first to deal with the environment-development debate facing the central and state governments and will have far reaching consequences for other tribal and forest dwellers affected by the creation of National Parks across the country.

This landmark judgement has given a boost to the CFM plan especially due to the recent recognition in official circles that existing approaches are not working. On the 9th and 10th of April 1999 a sanctuary committee meeting was held in Mohund, on the outskirts of the park, in which Van Gujjar, media and NGO representatives participated. Forest officials sensing that their monopoly over the forest could soon be broken by the CFM plan, did not participate.

Since this meeting forest officials have started more attacks against the Gujjars and RLEK volunteers. In one case a wireless set was seized from a Van Gujjar, Moosa Pradhan, who was working as an honorary forest guard. Over one hundred Gujjars had been given wireless sets by RLEK to establish a Radio Communication Network for the Milk Marketing project and to promote the practice of Community Forest Management. The Gujjars have been trained to use the equipment to report forest fires, poaching, illegal felling and epidemics attacking the local fauna, to other members of the community, RLEK and the police.

The range officer seized it from an area, which is neither a sanctuary nor a National Park. He gave no explanation as to why he was confiscating it and gave the Gujjar a blank receipt. RLEK filed the case in the Court of Additional Chief Judicial Magistrate, Dehra Dun, against the range officer and the Director of the proposed National Park. The prosecutor argued that the wireless set was being used to assist smugglers in killing elephants and other wild animals and could therefore be considered as a weapon. However, the magistrate found that this argument had no force and declared that the Director of the park had issued illegal instructions to his staff to seize the wireless sets in an attempt to harass the Gujjars.

The judgement concluded that the prosecution had no regard for the law of the land and that the possession of the wireless set was not an offence under any section of the Wild Life Protection Act 1972. The magistrate directed the state of Uttar Pradesh to return the set to RLEK immediately and held that the Forest Department was not authorised to seize the legal wireless sets again. As per the Wild Life Protection Act illegal seizure (i.e., of items that are not weapons) by any official in a protected or proposed protected area is punishable by law with a penalty of six months in prison and/or a monetary

fine. On the basis of this order RLEK has charged the concerned persons with illegal seizure.

International Workshop on Human Rights of Marginalised and Tribal Communities

Between the 1st and the 3rd of October 1999 the International Workshop on Human Rights of Marginalised and Tribal Communities whose title was 'The Role of NGOs and the National Human Rights Commission in Promoting Human Rights Culture' took place in Dehra Dun. The workshop was organised by RLEK, the National Human Rights Commission (NHRC) and IWGIA. Three former Chief Justices of India and three former Chief Justices of the High Court also supported it.

Representatives from tribal and indigenous communities - including Van Gujjars and Jaunsaris - participated in the workshop. Numerous eminent personalities from neighbouring countries also attended. During the workshop issues dealing with fundamental duties and the human rights of indigenous and marginalised communities and the supporting role of the United Nations were widely debated. The human rights situation in India and neighbouring countries, the role of non-governmental organisations in supplementing the NHRC and the role of the media in promoting a human rights culture were also discussed. The conclusions arrived at in the workshop came in the form of the Doon Declaration on Human Rights. One of the most significant ideas was the government's recommendation to set up a Tribal Commission where the Minister of the Commission would be from a tribal community.

Jharkhand

Jharkhand Bill Delayed

Once again it was a case of 'so near yet so far'. Almost everyone thought at some point during the Parliamentary Session which ended on the 17th of May 2000, that the three Bills for the creation of three separate and new states would be introduced and passed. However, already by the last week of the session, it was once again felt that the Bills, particularly the Bill on the creation of a separate Jharkhand State, might not be introduced.

The Jharkhand Bill was approved by the Legislature in Bihar, mainly due to the political pressure of the Laloo led Rashtriya Janata Dal. However, they also proposed about 50 amendments to the Bill. The Bihar and Jharkhand leaders however came to an agreement on the amendments which were accepted later on. The Bill, it would be good to remind readers, deals not with

J. 307

the total area of around 180,000 sq. km. that people seeking the establishment of a Jharkhand State have historically demanded, but only with the 79,638 sq. km of land that lie in Bihar. The Jharkhandis, particularly the Adivasi feel that this could be one step towards realising the goal of a complete and undivided Jharkhand. There was a half-hearted attempt to introduce the Jharkhand Bill, along with similar attempts to introduce another two bills (one on the creation of Chhatisgarh State, which would adjoin the proposed Jharkhand State and the other the Uttarakhand Bill) on the last day of the session which ended on the 17th of May 2000. The fact that such an attempt was made only on the last day demonstrates that the government is not resolute in its idea to create the proposed states.

It was reported that due to objections from the coalition parties of the Bharatiya Janata Party, as well as to objections from Non-Congress opposition parties, the Bills were stalled. The Parliamentary Affairs Minister later said that the Bills would now be introduced on the opening day of the Monsoon Session. Such a deliberate delay amply demonstrates the position of oppressed and marginalised communities and peoples in India. It also shows that popular regional demands and aspirations can be obstructed by constitutional structures, which are dominated, controlled and pressured by vested interests and groups inimical to the interests of the Adivasi and other marginalised people.

People's Health - a Low Priority in Jharkhand

In April 1999, Prime Minister Atal Bihari Vajpayee speaking in Luknow, Uttar Pradesh said that NGOs should freely come forward to help in completing the Government's pledge to provide all round medical amenities to all classes of people in society. He also said that Government hospitals do not have sufficient resources to provide healthcare for all of India's huge population. To help achieve this, he said, it would be necessary for NGOs to come forward with their support. The Prime Minister's sentiments were echoed in Ranchi, the proposed capital of Jharkhand, by the Civil Surgeon, Mr Y. K. Sinha, who declared, "Voluntary Organisations have an important role in maintaining the good health of society."

It is good that persons from the Government, right from the Prime Minister of India to the Civil Surgeon of a District, are echoing the need for involving voluntary organisations in the health sector. But what are the challenges that are actually being faced? In spite of the woefully inadequate availability of statistics, it is common knowledge that many diseases are rampant right across India. To illustrate the extent of the problem, we will focus on the scourge that is malaria which assumed epidemic proportions last year.

In October 1999 it was reported from Hazaribagh, in Northern Jharkhand, that the rate of malaria infection had reached epidemic proportions, costing over 250 lives in the previous three months. In those same months deaths continued to occur and there was also an increase in the numbers of those suffering from the disease. Furthermore, according to information received from doctors, politicians, and social workers, in the District of Hazaribagh, which has a population of approximately 2.3 million, between 12,000 to 15,000 people were affected by fever.

Adding to this alarming scenario was the accusation that the Health and Malaria Prevention Division was finding it difficult to control the spread of malaria. The negligence of the Malaria Department is made clear by the fact that, in spite of having sufficient stock of DDT powder, spraying has not taken place for the last two years. In the same District, in the village of Karmali tola of Mandu block, it was reported that in April 1999 16 people died and 150 people were affected by malaria within a five day period.

Moreover in the adjoining Ranchi District, it was reported that at the end of November 1999, just as in other blocks in the district, the Angara block had been knocked sideways by an outbreak of malaria. In the more forested areas, hundreds of people had contracted the disease and dozens of people had died from it by end of November. This grim scenario was also reported in many other areas in Jharkhand.

What was the response of the region's Health Department? The opening paragraphs of this section mentioned the need for voluntary organisations. However this need is often created by the negligence - sometimes criminal - of government health services, and also by their corruption. So what is required is not just some NGOs stepping in to do what the government should be doing in the first place, but also political action on the part of the people. The government must be made to do its job.

Disappearing Forests

On the environmental front, too, the scenario does not look positive. As in many other parts of the world, it has been noticed that in India indigenous peoples are found in places rich in mineral and forest resources. Industrial development is dependent on the extraction and exploitation of mineral and forest resources. This has had an overwhelmingly unhealthy and dangerous impact on the lives of indigenous peoples and others who live in proximity to these resource rich territories. In the state of Bihar, the major forest areas are located in its 18 southern districts that are part of the larger Jharkhand area.

The rest of the Jharkhand area lies in the states of Bengal, Orissa and Madhya Pradesh.

Bihar's minister for forests, Tulsi Das Mahato has accepted that in Bihar there is now only around 30,078 sq. km or 16% of the total area under forest cover, much lower than the 33% required for environmental health. In addition to other detrimental effects, the shrinking forests reduce the natural habitats of wild animals. Consequently, there are increasing incidents of animals attacking humans, their fields and habitations.

But the government of Bihar does not show the least inclination to protect or regenerate the environment. According to a report by a Central Government body, a programme designed to promote awareness about the importance of forests that was supported by the Swedish International Development Agency (S.I.D.A.) was begun in 1985-86. This programme was to last for six years, and its main aim was the training and providing of information to people. But even by July 1998, the programme had not been implemented. Nevertheless 5.588 million rupees (US$136,000) were spent on the salaries of Forest Department officers and clerks. Moreover, due to the negligence and lack of enthusiasm of the Bihar Government, the World Bank rejected a forestry project worth 1820 million rupees (US$44.39 million). Such irresponsible behaviour on the part of the state raises questions about who one should work with in order to help with the conservation of the environment. Obviously it may, if possible, be better to work directly with the people concerned, or through non-governmental organisations.

The People's Response

In the face of such environmental destruction and crisis the people's response, although limited, has been encouraging. Sometimes it has been rather extreme. Only two examples are given below.

In Pakur in the Santhal Pargana region of Jharkhand, an environmentally motivated group of children has made the activities of the 'Forest Mafia', wood thieves and contractors, difficult. The trucks are not allowed to enter the hills, and trucks carrying stolen wood are being made to pay a large sum of money. They have also demanded that the forest authorities take stern action against persons looting and destroying forests. In August 1999 reports told of more than 50 children from Satna village, in Littipara block, going from village to village spreading the environmental message.

A more extreme response occurred in November 1999 when activists and *padyatris* (persons who try to draw attention to their cause while travelling on foot) of the Chotanagpur Kisan Vikas Sangh (Chotanagpur Farmers De-

velopment Union) announced that because of the unwillingness of the concerned authorities and other parties to pay attention to their protests, it would be better to embrace '*Jal Samadhi*' ('death in water').

The Chotanagpur Kisan Vikas Sangh has, for the last five or six years, been protesting to effect a clean up of what they consider the most polluted river in the world - the Damodar River. In spite of it being the main river in the Hazaribagh-Dhanbad region, the water in the river has been so polluted that it is no longer drinkable. People are however forced to continue using the water, and as a result waterborne diseases are widespread and people are dying.

A few decades ago, the ambitious Damodar Valley Corporation, brought about the construction of the Tilaiya, Maithon, Konar, and Panchet dams, in order to ensure flood control, irrigation, the provision of drinking water and the generation of electricity. Nowadays, except for the generation of electricity, all the other anticipated services, and in particular the provision of irrigation and drinking water, have become redundant or a problem. The Sangh reported that the main culprits responsible for polluting the river are Central Coalfields Limited (CCL), the Damodar Valley Corporation (DVC), Bharat Coking Coal Limited (BCCL), the TATAS, the big businessmen's house, and the Bokaro Steel Plant (BSP).

On a more positive note, the people continue to stand firm in their struggles against big displacement projects such as the Tudurma and Koel-Karo dams and the Field Firing Range.

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Andra Pradesh

Gottikoyas: Haunted to Disarray

The forest areas of the Khammam District in Andhra Pradesh and in neighbouring Madhya Pradesh and Orissa states are inhabited by the Gottikoyas who moved here due to the inaccessibility of drinking water in the places where they had previously lived. But their new home was declared a Reserve

Forest, and today officials use this as a reason for harassing the Gottikoyas in all kinds of ways.

The Gottikoyas who had migrated to the agency villages of Khammam from different areas of the Bastar district in Madhya Pradesh are now facing an uncertain future. The forest officials are in a fix, as over the years nigh on 20 Gottikoya settlements have sprung up in the Reserve Forest. The Moriyas, an aggressive tribe that has been occupying patches of reserve forest close to the Bastar area, had tears in their eyes on only two occasions. Once when they were blessed with the much-needed water and again when they were all deprived of it. The Gottikoyas had a long fight with the local authorities to obtain basic amenities such as drinking water, but the officials were unable to help them as the Forest Department had challenged their occupation of the Reserve Forest. Finally they turned to a private donor - the Loyola Integrated Tribal Development Society (LITDS) - to quench their thirst. Father Peter Daniel, the head of the NGO, had entrusted the task of drilling boreholes in the water deficient settlements of Jogaiah Jaggaram, Bandi Jaggaram and Pavurlanka to tribal activists

They engaged a rig for the purpose, but taking it to such inaccessible settlements was a Herculean task for them. In the third week of January this year it started drilling and in just four days all three settlements had had boreholes sunk. But the people's joy was short-lived since forest officials who had been objecting to the very presence of the Gotikoyas in the Reserve Forest were enraged by the felling of trees to make way for the rig to reach the villages. When all the men were away in the jungle, forest guards swooped on the settlement and, under police protection, filled the boreholes with sand and stones and warned those women and children who were protesting not to attempt to repair them under any circumstances.

The boreholes that were sunk in the three villages were all dismantled simultaneously on February the 3rd. Now the women have resumed their old practice of trekking three kilometres to fetch drinking water and forest officials have threatened to sue Father Daniel, for donating LITDS money to sink boreholes in the Reserve Forest. When the Father pleaded ignorance about the reserved status of the forest patches the Gottikoyas were living in, a case was brought against one of the tribal activists, Mr Sode Veeraiah, for drilling the boreholes.

On various occasions forest personnel have also razed settlements to the ground in order to discourage any further influx of Adivasis from Bastar. Bandi Jaggaram, where the LITDS sunk the first borehole, was burnt down by forest officials 10 years ago. But the people did not leave the place. The

Forest Department, which conducted a survey in the division two years ago, identified as many as 299 Gottikoya families settled in the Reserve Forest. They occupied 1173 acres of land in 13 sites in both the north and south forest divisions of Bhadrachalam. The occupation started as early as 1983-84 in Chinnampadu and Errampadu. Today nearly 500 acres of Reserve Forest land is being cultivated by the tribes in the two settlements, compared with 340 acres in 1997. The Gottikoya population also rose from 97 to 150 in the two settlements, and there was a considerable increase in numbers in other villages.

Meanwhile, the Khammam police commenced a special operation to send the Gottikoyas back to Bastar. On the 12th of March this year, police evacuated about 30 Gottikoya families from three settlements including Dayyalavai and Gaddamadugu in the Bhadrachalam division. All the families, along with their belongings, were taken by lorry to the Kunta area in the Bastar district.

Dilution of Land Laws and Legal Deceit

During 1999 and into 2000, the vested interests of non-tribal landlords and the industrial lobby applied maximum pressure on the State Government of Andhra Pradesh to amend the land transfer regulations of 1970-I. As a result of this lobbying by non-tribal groups, the State Government yielded to their pressure by appointing a House Committee on Tribal Land issues, which subsequently submitted its report on the 21st of July 1999. Its recommendations can be divided into four categories as follows.

1. The Presumption Clause - This clause legally defines the land in the scheduled area as belonging to the tribals. It says that legally and historically the land is first and foremost a source of livelihood for the tribals and that it belongs only to them. Later entrants, it continues, are to be treated differently from tribal peoples who should receive preferential treatment vis a vis these areas. Without understanding the historical reasons for this clause, the House Committee adopted an anti-tribal stance and recommended deleting the clause, a move which would be harmful to tribal groups and their rights.

2. The Gladston Report as Evidence for the Committee's Report - Gladston was a government officer in the Central Province who in 1863 took an interest in surveying the upper Godavari tribal areas, including Bhadrachalam and Rekhapelly *taluks*. This report has nothing to do with the 'problem area' that the present committee wants to study. These areas are Jeelugumelly and Buttyagudem which are in the lower Godavari River area. The Gladston Re-

port admitted the presence of the non-tribal castes in the upper Godavari River areas. The house committee, forgetting the fact that because the area the report describes is not the one they were addressing, used the report as reference material for arguments in favour of the non-tribal claim. The intention behind this is an attempt to dilute Act I of 1970. The learned members of the committee did not even bother to visit either the area which the Gladston report studied, or the 'problem area' set before the house committee. More accurately, the committee did not bother to consider tribal interests as being of primary importance, but instead tried to find pretexts to amend the Act. Act I of 1970 does not harm those non-tribal farmers who lived in harmony with the tribals and who possess clear legal titles up to 1970. The act only covers post-1970 entrants and people occupying lands without clear evidence of title deeds. Illegal tribal landholders prior to 1970 make up one category, and the second category comprises those post-1970 non-tribal land users who have bought or occupied the lands in the full knowledge that such actions or transactions are illegal. This second category is, in brief, made up of settler landlords, cultivators and non-tribal groups who depend on various occupational backgrounds and who mainly belong to backward castes.

3. The House Committee indirectly referred to the 'position certificates' of various non-tribal castes in the agency areas. This is another tactic to dilute Act I of 1970, and it was a move that had already been formalised by the State Housing Ministry through its official circular 899/RH1/99, dated the 8th of July 1999. This officially grants non-tribal people permission to build houses in the agency areas. Officially allowing houses to be built further encourages the ingress of non-tribal people into the agency areas.

4. The Committee also mentioned allowing the sale of land to non-tribals in the agency areas, a stance which exposes the hollowness of the committee's recommendations and its ill preparation on this issue. In fact, Act I of 1970 provides a space for the agent to buy land if any non-tribal surrenders it at the specified rates. This is clearly available in the present Act. But why the demand for permission of land sale among non-tribals? This not only leads to further dispossession of the tribals but also creates a terrible amount of pressure on the scant remaining forest. The correlation between the migratory movements of the people and the steady loss of the forest in these areas of the state is quite obvious. Hence the strict implementation of the land transfer regulations not only protects the tribal people but forest resources too. Furthermore many of the non-tribal land buyers are not members of land depend-

ent communities, castes or classes. A sizable number are just seeking to increase their property stake. A genuine pro-tribal act must not be sacrificed simply for the sake of their unlimited ambition

Gender Exploitation: Deceived Tribal Women in the Godavari Valley

The ruthless plundering of the land and forest resources in the Godavari valley does not stop there. Sexual exploitation of tribal women is another recent type of exploitation that disturbs the tribal communities. The classic mode of plundering tribal lands through acquiring concubines is rampant in the Godavari valley area, where settler landlords, petty traders and employees of the Government are the principal players of the game.

Of late, tribal girls have become the most sought after brides by 'bachelors' from the plains. Pecuniary and property benefits accruing from the girls are cited as reasons for this. With Regulation 1 of 1970 prohibiting the transfer (sale) of land from tribals to non-tribals in the notified areas, landlords from the plains who have an eye on these properties, go to the Girijan areas posing as bachelors. They then marry tribal girls, luring them "with their suit, boot and hat", so as to overcome the difficulty caused by Regulation 1.

The 'grooms', however, 'ditch' the girls after acquiring the properties, government grants, a job if possible and innumerable subsidies given to tribals under welfare schemes. During her recent visit to the Paderu area, the Chairperson of the State Women's Commission, Mrs Susheela Devi, heard many first hand accounts from victims of these 'fake marriages'. In an attempt to find a solution, six hundred tribal women complained to her about these marriages.

The landlords' modus operandi, so Mrs Susheela Devi told The Hindu in an interview, was for them to leave their real wives and children back in the plains - mostly the coastal areas - and arrive in the targeted area as a 'bachelor' seeking an alliance. "No objection if the bride is a tribal", they would say, adding a flavour of reformer to their new role.

A surprise was that some girls who were better placed and working as auxiliary midwives, "felt proud" to have an equally better off 'bachelor' as a life partner. And when the marriage fails the parents or the elders in tribal society do not grumble when compelled to fend for the newly born child of the plain's man. Some girls at Rampachodavaram and parts of East Godavari district, which Mrs Susheela Devi also visited, said they did not know if a law existed that would punish these 'super dupers'.

To contain this menace, the Chairperson sought to introduce a law stipulating that men from the plains wanting to marry tribal girls should file an affidavit before the local magistrate, that he is not already married. This affidavit should also carry the signature of two of his relatives. After this, the district Superintendent of Police would be required to conduct an enquiry about the marital status of the man within a period of four weeks, as happens in the US and other western countries. Mrs Susheela Devi said that if the affidavit is found to be false, then this should be considered a second offence, adding that "this will serve as a safeguard against ditching". She said that the Commission would organise a state-level democratic exercise addressing this matter, and called for suggestions and opinions from women and their organisations before finalising the provisions of law for consideration by the Government.

According to the feedback received by the Commission during its 10 month long existence, women in the state are still subject to harassment over dowry payments and inhuman treatment. It received 283 petitions that described various problems, 169 of which were settled. The Commission achieved a compromise in the case of a family who had been cast out from a place as a result of the non-payment of a dowry and managed to restore a girl, Geetha, to her parents with the help of the police in Hyderabad.

Mrs Susheela Devi said that a large number of cases relating to maintenance, bigamy, harassment and outrage of modesty were pending before the courts and that she hoped that all of them could be solved under the relevant sections of the law. In view of this, she said, she was planning to hold a 'Lok Adalat' (traditional village court) sometime in May to June this year for settling appropriate cases at a group level. The High Court has already 'agreed' to this proposal according to which even a District Judge could do the job.

Other measures that were suggested included amendments to section 125 of Cr.PC and Section 498(A) of the Indian Penal Code (IPC) providing for an increase of maintenance payable to a deserted wife living with 'major' children to from the present 500 rupees a month to 3000 rupees a month. It would also provide for seeking compromises between husbands and wives even after the wife had started a prosecution against her husband for dowry harassment. The Chairperson said that the Law Department was drafting a bill.

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Orissa

Orissa became a separate state in 1936. With its 13 districts - that were recently reconfigured into 30 districts - it has the third largest tribal population of any state in India (1991). As many as 62 different tribal communities, with 25 different languages live here. Twelve have been identified as major groups, including the Kondh who are the largest group, followed by the Santhal, Saura, Gond, Munda, Parja, and Bhuiyan. The tribals inhabit remote and inaccessible hilly regions and have very diverse social organisations and cultures.

About one in four of Orissa's citizens is a tribal and put together they comprise a large minority. In a number of districts like Mayurbhanj, Keonhjhar, Phulbanj, Kurapur and Sundergarh, they constitute more than 50% of the population. The government of Orissa considers the development of tribals to be an important objective and about 45% of the state's tribal areas has been declared a Scheduled area, under a 1959 order. In 1977 this order was revised to include seven more areas.

Deprivation Leading to Discontent

In recent years, the level of discontent amongst tribals has risen, and this has been accompanied by a number of bloody uprisings. The majority of tribal areas particularly in Koraput still remain unsurveyed. Tribal land is being lost as a result of land grabbing by non-tribals and because of inadequate government intervention. Access to forest and forest products has been minimised and the prices of forest products are not appropriate. Tribals are forcefully evicted in the name of development. Sometimes this takes the form of irrigation schemes, power projects, industrialisation or the establishment of protected areas without any proper rehabilitation for the people affected. Community rights no longer exist, and the government seems to be the biggest exploiter.

The tribals, however, are no longer prepared to be mute bystanders. In 1999 there were three outbreaks of resistance by tribals. In one case they set the local jail on fire before bringing out two inmates (who were people who had been exploiting them) and burning them alive. Furthermore they burned another person belonging to a Scheduled Caste who had given shelter to those two exploiters. Incidentally, the exploiters also belonged to a Scheduled Caste. In another incident, tribals resisted people belonging to a Scheduled Caste

317

who wanted to grab their land, and in the process 10 tribals were killed when police opened fire. In another case the 'liquor Mafia' killed a local tribal leader when he succeeded in stopping the production and selling of liquor in the Suridargarah district.

In March 2000, thousands of tribals assembled in the state capital Bhubaneswar and organised a rally which passed by various centres of power. They ended by making their feelings known to the new Chief Minister in the hope that the new government will adopt a different approach towards tribal development. The new Chief Minister made a sincere promise to look into their affairs. Thus a process of self-assertion among the Adivasi of Orissa has begun and is gaining strength day by day.

According to recent reports, there are 172 mines in Orissa. Seventy of these are iron mines, 20 are coal mines and four are bauxite mines. The districts of Rayagada, Koraput and Kalahandi are the nation's poorest regions. Still the tribals in these areas are coerced and intimidated into vacating their land, which is their only means of survival. The 15000 million rupee (US$375 million) Larson and Turbo project will make 6000 people from 20 villages homeless. Another project at Baphilimali, in the Rayagada district, is being carried out by Utkal Alumina International Ltd. (UAIL) and will displace a further hundred families.

Super Cyclone Wrought Havoc on Orissa

Orissa experienced one of the most devastating human disasters as a result of the worst cyclones for a century which shattered the state's socio-economic foundations. On the morning of the 29th of October a killer cyclone with a wind velocity of about 250 to 300kph hit coastal Orissa. A total of 12.5 million people, among them about 800,000 tribals, were affected by this super cyclone, either directly or as a result of salt water flooding. Many once bustling and prosperous villages have been completely damaged or washed away. The ferocity of the cyclone was such that tidal waves measuring 15 to 20 feet went 30km inland, causing widespread loss of human and animal life, and destroying crops and property. The human death toll is believed to be more than 30,000. The misery was compounded by large scale flooding in a number of areas in neighbouring districts soon after the cyclone wrought its devastation.

Andaman and Nicobar Islands

The Andaman and Nicober Islands in the Bay of Bengal consist of over 572 islands, islets and rocks. Approximately 87% or 7171 sq. km out of its total area of 8249 sq. km is officially forested, harbouring a unique variety of flora and fauna.

Thirty-six of the islands are inhabited. In 1901, the population of the islands was 24,500. After India's independence from British rule in 1947, the Indian government encouraged immigration from the mainland. According to the 1991 census the population numbered 280,661 people, and today it is estimated to be about 400,000. The indigenous peoples account for only 9.54% of the total population. The official figure of 26,770 does not include the Jarawa and Sentinelese, since they could not be counted. Four indigenous peoples of Negrito origin live on the Andaman Islands - the Great Andamanese, the Onge, the Jarawa and the Sentinelese. The Nicobar Islands are home to two indigenous peoples of Mongoloid origin - the Nicobarese and the Shompen. It is believed that at the end of 18th century, there were 15 indigenous groups in the archipelago. But only the six have survived the onslaught of the British and Indian colonizers.

Plans were drawn up in recent times for a more rapid development of the islands' economy. The setting up of a free port and the development of tourism have been suggested. Claiming to be based on the recommendation of a UNDP/WTO study team, projects for the construction of beach resorts, the development of beaches, water sports activities, manpower planning and training, the setting up of a tourism development authority and more effective modes of communication have been initiated in the past few years.

But for the indigenous peoples of the Andaman and Nicobar Islands, contact and development have only brought about the disintegration of their societies, the loss of their cultures, dispossession, poverty and death. With the exception of the Nicobarese, the populations of the surviving indigenous communities have continued to dwindle rapidly over the past decades.

Many of the *Nicobarese* have been assimilated into Indian settler society, especially those living in Car Nicobar island. Christian missionaries have long been in touch with them and are converting them to Christianity. Numbering around 26,000, they are by far the largest group of indigenous people in the Andaman and Nicobar Islands.

Occupying the remote and isolated North Sentinel Island, the *Sentinelese* have remained completely hostile and have never permitted anyone to land on its

319

shores. The Sentinelese were only 'discovered' in 1967. They are thought to number between 50 and 200 individuals. The Government of India sends expeditions sporadically - boats loaded with gifts of red ribbons, coconuts, sweet potatoes, cooked rice and aluminium vessels. The Sentinelese have been known to come out to the boats to accept the gifts except for the cooked rice and aluminium vessels. They have made it clear that they want to be left alone.

The *Shompen* of Nicobar have until recently been fairly isolated on the large island of Great Nicobar. But settlements of ex-servicemen and developmental activities are putting them under increasing pressure. A friendship hut has recently been established to facilitate contact with settlers. But experiences of other indigenous groups show that even such kinds of 'friendly contacts' can be fatal.

The *Great Andamanese* were a community of 10 sub-groups living on the main Andaman islands. When contact was first established with them in 1858, their population was estimated to be about 4800. The British strategy to 'civilise' them consisted of a combination of 'punitive' expeditions and bribery.

After contact a large number of them perished because of introduced diseases. Epidemics such as pneumonia (which broke out in 1868), measles (1877) influenza (1896) and syphilis killed hundreds. They had no resistance to these diseases. Out of the 4800 Great Andamanese estimated to have been alive in the 19th century, the population was reduced to 625 in 1901, 209 in 1921, 90 in 1931, and 23 in 1951. As mentioned above, they numbered 28 in 1991. They were the first to be 'civilised' and by now they have ceased to exist as a community. Until a few years ago they had to resort to begging for a living, when the administration settled them on Stuart Island where they now survive on government subsidies.

The *Onge* live on the 732 sq. km large thickly forested Little Andaman Island. After the Great Andamanese they were the next to be 'civilised'. With independence, the Government of India encouraged migration of mainlanders to safeguard the country's territorial interests. The Andaman and Nicobar Protection of Aboriginal Tribes Regulation of 1957 accorded the status of a tribal reserve to the entire island. But a 1965 report by the 'The Interdepartmental Team on Accelerated Development Programme for the A & N Islands', Ministry of Rehabilitation of the Government of India, proposed the clear felling of nearly 40% of the island's forests. They also proposed bring-

ing in 12,000 settler families to the area and the promotion of commercial plantations such as red oil palm and timber based industries. In 1967, the island of Little Andaman was opened up for settlement. In 1970 timber extraction began. Twenty thousand hectares (roughly 30%) of the island was denotified from its tribal reserve status in two stages, in 1972 and 1977, leaving 53,000 hectares as an inviolable tribal reserve. The 1600 hectare red oil palm plantation began work in 1975 under the direction of the Forest Department and a major timber extraction operation continues even today.

In 1976 the Onge were forcibly relocated by the government to an area 110 sq. km in size at Dugong Creek in the northeast of the island. In 1980 the second settlement at South Bay at the southern tip was established.

The Forest Corporation logs even inside the tribal reserve, extracting larger quantities than allowed, an act which destroys the forest. The warnings of the Anthropological Society of India and the media have been ineffective.

Only a decade ago, the Onge were skilled hunters and gatherers following a seasonal pattern of moving from the coast to the forest and creek areas in accordance with the supply of food in the sea and the forest. Today, they are confined to their settlements living off government provisions and working as plantation labourers. Alcohol was introduced by the settlers and this is exacting a heavy toll on the community. The steady decline in the size of the community has led to the erosion of their values and social relations - their culture is being lost. Since contact with the British colonialists the population of Onge has dropped from 672 in 1901 to 250 in 1931, and to 101 in 1991. Today the birth of a child has become a rare occasion. The Onge, just like the Great Andamanese, are not only losing their culture but are facing extinction.

The *Jarawa* occupy an area of 785 sq. km along the west coast of Middle and South Andaman, an area termed by the government as the Jarawa Reserve. During World War Two, the Japanese captured and massacred many Jarawas. Middle Andaman and South Andaman are the focus of much of Indian immigration to Andamans. The Jarwas remain hostile. The Jarawa Tribal Reserve was established in order to protect the Jarawa way of life, and to keep them confined to the reserve. To prevent the increasing settler population from encroaching onto the reserve, 44 bush police camps with 400 policemen were established along the periphery of the reserve.

Since the 1970s, the size of the reserve has been steadily decreased in order to appropriate land for logging, settlers and the Andaman trunk road. The 340km long Andaman trunk road cuts through the heart of the Jarawa reserve and has opened up more areas for settlement. The Jarawa's protests in

the form of roadblocks, the demolition of bridges and attacks on and the occasional killing of workers were ignored. Work came to a halt in 1976 but was resumed. Traffic on the road has grown enormously. Many more settlers now live in areas bordering the Reserve thereby increasing the possibility of interaction and conflict. Settlers commonly hunt wild boar and deer inside the reserve as well as poaching forest produce and timber. At times, Jarawa settlements are also destroyed. Many illegal encroachments on the reserve are connected to political patronage. Forced into a smaller and smaller area, conflicts between the Jarawa and the settlers have increased and violent incidents have occurred. With continuing encroachments by settlers onto the reserve, the function of the police force has been confined to keeping the Jarawa at bay. A people who once roamed the length and breadth of their island unhindered are being kept hostage on a fraction of their original lands.

Jarawâ run to meet the "contact boat" (Photo: Sita Venkateswar).

In October 1997, settlers in the Middle Andaman witnessed the unfamiliar sight of a group of Jarawa. This was the first recorded instance of Jarawa voluntarily seeking to establish contact with the settlers. Over the next few

months there were several more reports of Jarawa coming out of their forests. Some of them were seen to be pointing out to their bellies, a gesture which was interpreted as an expression of hunger. Packets containing dry fish, puffed rice and bananas were air-dropped from helicopters over Jarawa territory. But the Jarawa have sustained themselves on forest produce for centuries and there is no reason to believe that they have suddenly been pushed into starvation.

Anthropologists have another explanation. It relates to the experience of Enemy, a teenage Jarawa boy, who was found with a fractured foot near the town of Kadmtala in 1997. The local residents arranged for his treatment in Port Blair where he was well looked after. When Enemy recovered, he was sent back to Middle Andaman where he promptly disappeared into the forest. Since October 1997, it is Enemy - and not starvation - who has largely been responsible for bringing his people out to experience the settlers' hospitality. Nevertheless, the destruction of the natural environment and the confinement of the Jarawa into a smaller and smaller territory are undoubtedly threatening factors which are making a serious impact on the Jarawa.

But an even grimmer future awaits the Jarawa should the Government of India prove to have learned nothing either from the genocidal practices of the British or from its own past mistakes. The government's Master Plan (1991-2021) for the Welfare of Primitive Tribes of Andaman and Nicobar Islands lays out a policy of settling the Jarawa. The plan for 2020 and beyond says: "The Jarawas would lead a settled life with surplus economy based predominantly on fishery. There shall be two Jarawa village settlements, one in the South Andaman and another in the Middle Andaman". The government is still in the process of revising the Master Plan, so its policy on the indigenous peoples of the Andaman and Nicobare Islands is not yet clear.

However, forces in the government pushing for forced assimilation have received support from a Public Interest Litigation brought against the Union of India in 1999. Ms Ganguly, a lawyer living in the Andamans, is demanding the forced settlement of the Jarawa. This may, as history in the Andaman Islands as well as elsewhere in the world has shown, lead to the extinction of this hunter-gatherer community. Ms Ganguly said, "It is high time they were acquainted with modern civilisation". She referred to the two other contacted tribes on the Andaman Islands as examples of the type of settlement she wants for the Jarawa. But even the officers from the government's Tribal Welfare Department have admitted that these cases are disastrous. Ms Ganguly has never consulted the Jarawa about her intentions, and they could not take part

JL 323

in the proceedings. It is highly unlikely that they are even aware of what is going on.

Tragically, warnings raised by anthropologists and other concerned people ever since contacts with the Jarawa were intensified in 1997 have just recently come true. In August last year a measles epidemic broke out among the Jarawa, with subsequent respiratory complications, including tuberculosis and conjunctivitis. One hundred and forty cases have so far been reported in a population estimated to total fewer than 300 people. These illnesses are undoubtedly a direct result of the increase in the number of contacts by the Andaman government and of increasing settler encroachment on their territory. Such reports evoke recollections of epidemics among the Great Andamanese and Onge which severely decimated their populations and led to the extinction of several groups. Anthropologists, local and international support organisations and other concerned people have been pressing the Andaman administration to terminate all forms of contact with the Jarawa, and to close the road running through their territory, but apparently to no avail so far.

Survival International has been leading the international campaign for the rights of the Jarawa. Its campaign can be supported by contacting the web page at: http://www.survival.org.uk/

Sources

The article is primarily based on an unpublished article written by The Other Media, New Delhi. It has been edited and amended by the editor with the aid of the following sources:

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SRI LANKA

The Wanniyala-Aetto

In 1983, the Wanniyala-Aetto of Sri Lanka were a spirited hunting and gathering people protesting against the discriminatory practices of the government which denied them access to their traditional forest habitat. In 1998, they seemed to be at last poised on the brink of success. In redressing the

grievances of the Wanniyala-Aetto community, the President allowed them to "continue their traditional way of life" and to "get the active participation of the Wanniyale Eththo in the process of protecting fauna and flora in the Madura Oya National Park at their free will" (President of Sri Lanka 1998). The Department of Wildlife was ordered to issue special ID cards to the Wanniyala-Aetto so that they could enter Maduru Oya National Park without harassment or persecution. Twenty-eight cards were handed out immediately after the proclamation, but 1020 individuals remained on the waiting list. Only one year later, in 1999, the government abandoned this creative solution. A new Wildlife Director was appointed and he disclaimed the policy of his predecessor, stopped issuing permits, and refused to renew expired IDs or issue the replacements of lost cards. The Wanniyala-Aetto are back where they were before they presented their case to the WGIP meeting at the UN in 1996. They cannot enter the forest to hunt and collect without endangering their lives. Today, they are a disillusioned and disenfranchised people who are eking out survival by putting their cultural traditions on show for curious tourists.[1]

Current Conditions

Conditions among the Wanniyala-Aetto reflect the problems that are all too familiar to indigenous people the world over, beleaguered in their own land by an intrusive, dominant society. In Sri Lanka, the very small number of surviving Wanniyala-Aetto is being virtually held captive as a result of the exploitation of both forest resources and of the people themselves. As the indigenous barter system is inexorably replaced by the market economy, the native people are paying a heavy price both in terms of their cultural integrity and in term of individual survival.

The forest resources continue to be depleted by the removal of valuable timber, game, and animal products such as ivory, skins, teeth and claws. Entrepreneurs who are themselves half-indigenous exploit their own people as well as the natural resources. In the last few years, the forest-dwellers (the Wanniyala-Aetto) and traders from neighbouring areas are beginning to question these practices.

If, for a short while, such complaints unsettle the police, hotel and rest-house owners, and local politicians, everything soon returns to normal. The police will once again look the other way as lorries carrying rare timber under the guise of 'firewood', roll through military checkpoints at night. Corrup-

JL 325.95

tion is too large a part of the establishment in Sri Lanka for any significant change to be made by local protesters.

The Wanniyala-Aetto themselves are exploited in a number of ways, all of them resulting from the customs of their culture: balanced reciprocity; animistic beliefs and; traditions of dance, myth and material life. To survive in an increasingly hostile and foreign world, the Wanniyala-Aetto have learned to adapt to both overt and covert legal systems. Since time immemorial, the survival of the vastly outnumbered Wanniyala-Aetto has depended partly on developing and maintaining 'friendships' with the authorities, i.e. to bribe them with gifts or a percentage of their income from felling trees.

Exploitation of Indigenous People: Tourism - Who Benefits?

Tourism is a special form of exploitation, new to the Wanniyala-Aetto. It represents a dramatic break with the past, when indigenous hunters and gatherers mostly hid from outsiders, successfully retreating into the forests. Such an avoidance of other people was no longer possible after 1983, when the last of the great forestlands was set aside as the Maduru Oya National Park. In the years since, a strong eco-tourist economy has grown up in the region, marketing the indigenous people and their exotic culture to tourists, mostly to the 20 million other Sri Lankans, but also to some foreign visitors. Travel agencies and private entrepreneurs in tourist towns promote tours to the see the 'Veddah' people in the jungle. When a tour is scheduled, the local families hurry to greet the outsiders and perform dances, sing, and act 'primitively' to comply with the expectations of the tourists. The people make bows and arrows, figurines and jewellery specifically to sell on these occasions. Eco-tourism can be a responsible form of tourism that promotes concern for the environment and the local community. It can be beneficial if the indigenous community understands business, talks the language, negotiates a fair share of the profit and distributes the income among its members. Unfortunately, most non-acculturated indigenous people do not understand the ramifications of this business, and do not foresee its consequences.

In Sri Lanka one such example is the event that goes by the name of the 'Night Camp Among the Veddahs'. Twice a month a European guide, her local counterpart, and a group of eco-tourists equipped with canvas tents, food, barbecue grills, and coolers of Heineken and Carlsberg come to befriend the 'Veddahs'. The Night Camp is scheduled between mountain biking in Pollonaruwa the day after and a visit to an elephant orphanage in Kandy the day before. For the Wanniyala-Aetto, a Night Camp takes up four to five

days of their time, because any activities such as long distance hunting trips that would keep them from their commitment to meet with the tourists, have to be put on hold. The Sri Lankan tour guide usually comes one day prior to the event to prepare for the group's arrival. On the evening itself, the eco-group is sheltered by a tent (in case of rain) and, with beers in hand, are treated to a night show of 'spirit-possessed' Wanniyala-Aetto, who perform out in the open. After the show there is an informal get together during which beer and other beverages are offered to the performers. The guide sees no problem in letting the tour members offer this alcohol as a friendly gesture of appreciation to the performers. The tourist feels that he or she has made contact with 'primitive' tribesmen, and the guide earns high scores when the tourists evaluate the programme.

Meanwhile, in the Wanniyala-Aetto households, worried mothers wonder if their sons will return without getting into trouble, and their wives are concerned about the condition of their husbands when they do come home. Among the Wanniyala-Aetto, a person who is not in control of his mind is crazy, dangerous to himself, his family, his kin. He is unreliable and no one seriously considers such a person as a friend or as a future spouse or father. Unaware of the damage they might have caused, the guide and the group move on to new adventures. The Wanniyala-Aetto are left to pick up the pieces. The half dozen performers share 2000 rupees (US$33) for their night's 'work'.

While the night camps are not very lucrative for the Wanniyala-Aetto, daytime tours provide a much higher income for the participants. The father of the family may earn up to 4000 rupees per visit, and his sons 500 to 1000 rupees if the bus has a 'good load', meaning white tourists who pay the men to dance in front of their video cameras. Compare this generous income with the salary of a government schoolteacher, who receives 5000 rupees a month (1999). The high sums offered to the Wanniyala-Aetto families provide very attractive alternatives to foraging or 'poaching'. A man may decide that his time is best used by serving tourists instead of spending hours or even days in search of wild foods and risking arrest. The attendant acculturation of the indigenous culture often results in a breakdown in traditional values, an 'aping' (Denslow and Padoch 1988:122) of wholly inappropriate European clothing, technologies and mannerisms. As noted earlier, there is often an accompanying increase in alcoholism. These consequences are obnoxious even to the tourists, and when they become displeased they seek a new destination.

327

Acculturated Wanniyala-Aetto, Targeted for Wearing Clothes

Although the Wanniyala-Aetto have lived on their fabled island for thousands of years, and have survived numerous incursions of foreign peoples, the last half of the 20th century has been particularly destructive for them. They are forbidden to follow their traditional, forest-oriented way of life and at the same time they are criticised for attempting to adapt or to modernise. Their traditional vegetable gardens are described by the media as junkyards filled with empty salmon tins, broken glass, plastic bags and discarded bicycle wheels (Sunday Times 1998). The heaviest criticism of them springs from the clothes they wear (The Sunday Leader 1999, Sunday Times 1999, Daily News 1999). Compare the present Wildlife Conservation policy to the President's statement when he publicly announced the return of the National Park to the Wanniyala-Aetto:

> *"(This policy)...will offer an opportunity to the Veddha people or the Wanniyale Eththo to continue their* traditional *way of life (if they choose to do so) and to make progress of their civilisation" (the President of Sri Lanka, August the 7th 1998, emphasis added).*

Regrettably, Sri Lankans are not generally aware of their island's indigenous people or how they live in modern times. Many people, including the Department of Wildlife Conservation staff, believe that the Wanniyala-Aetto still live in caves, hunt with bows and arrows and, apart from loincloths, go about basically naked. While this last description may be correct, the other images stem from adventure stories (for example, Robert Knox, 1681), and from novels and folk tales (Spittel, 1953, 1950; Parker, 1971). As a result, the Wildlife Department justifies targeting the Wanniyala-Aetto's right to hunt in the park by arguing that since they wear clothes, these hunters cannot be indigenous people (Sunday Leader 1999).

The word 'traditional' in the President's statement causes serious controversy. The present generation of Wanniyala-Aetto does not live in caves. To avoid getting killed, they now ask the authorities what to wear in the forest. Some government officers think native people should wear only loincloths, and live in simple lean-tos. Hunting should be pursued only with bows and arrows, while salmon tins and bicycles are incompatible with a traditional 'Veddah' life. Others agree the Wanniyala-Aetto can wear a sarong, ride bicycles, and hunt with muzzleloaders, but only for their own consumption. There can be no sale of forest products to outsiders.

Today, the standard of living in Sinhalese or Tamil villages is not very different from that of the Wanniyala-Aetto. Many Sri Lankans, therefore, cannot understand why the Wanniyala-Aetto should be treated differently. On the surface such an opinion might appear justified, but a closer look at matters reveals the real reasons for the government's seeming benevolence toward indigenous villages. In the modern state, the political parties pay attention to matters before elections. The poor 'Veddahs' live in villages quite distant from cities, and are often depicted by the media as innocent tribesmen leading a romantic life in the jungle. When journalists are on hand to document their generosity, politicians find it more advantageous to donate books and pens to Wanniyala-Aetto children, and roof tiles to their parents, than to scrutinise the welfare of a people who live so far outside the norm.

Unaware of the political currents, people and the media criticise the Wanniyala-Aetto for living in 'modern' houses, receiving government aid, consuming alcohol, selling meat, exploiting their culture for tourists, and using cash. Among most Sri Lankans, the level of awareness of the value of indigenous people to the country at large is almost non-existent. There is neither respect for their knowledge and skills nor any appreciation of what they have contributed to Sri Lanka in the past. There is not one Sri Lankan organisation that defends the rights of the Wanniyala-Aetto. Although the Sri Lankan Constitution forbids discrimination on the grounds of sex, ethnicity, caste, social origin, or place of birth (Sri Lanka Draft Constitution 1997: Chapter 3 11 [2]), the opposite way of acting permeates every aspect of Sri Lanka society. The Wanniyala-Aetto are physically and socially marginalised from the two major social groups, the Sinhalese and the Tamils. The two thousand Wanniyala-Aetto individuals have limited influence compared to the twenty million non-indigenous citizens. The government, scarred by the violence of the civil war that began in 1983, is determined to tone down the emphasis on ethnicity within the country, and instead promote the spirit of nationhood. Total Sinhalisation of the Wanniyala-Aetto is the official policy of the government, despite the President's 1998 statement to the contrary.

The author would like to acknowledge and thank Elizabeth von Till Warren for carefully editing the manuscript for publication.

Notes

1 For background information, please see IWGIA publications dating back to 1985, and the *Cambridge Encyclopaedia of Hunters and Gatherers* (Lee and Daly 1999).

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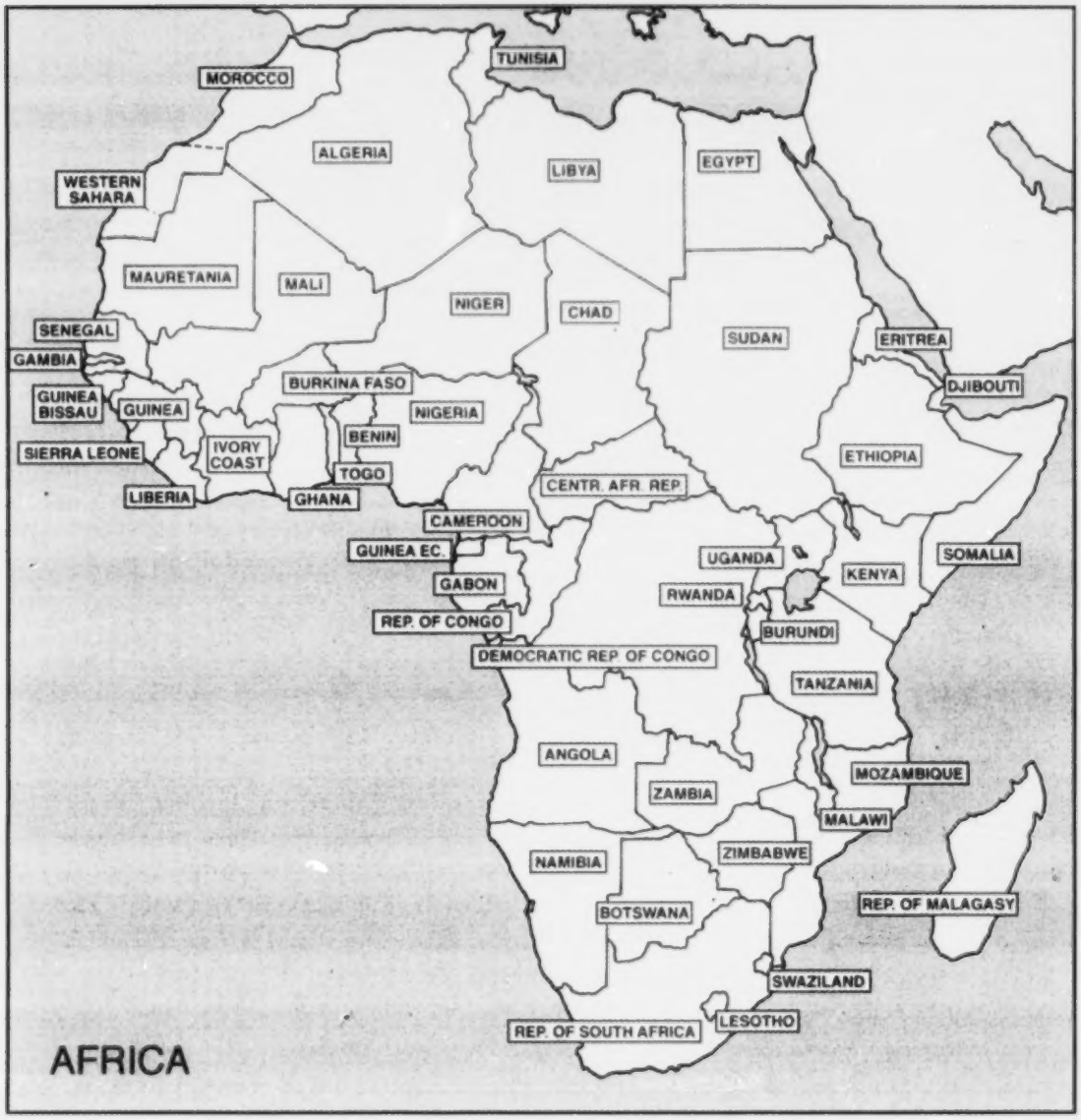

Countries covered in this issue: Northern Africa, Ethiopia, Kenya, Great Lakes Region, Botswana, Namibia, South Africa

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AFRICA

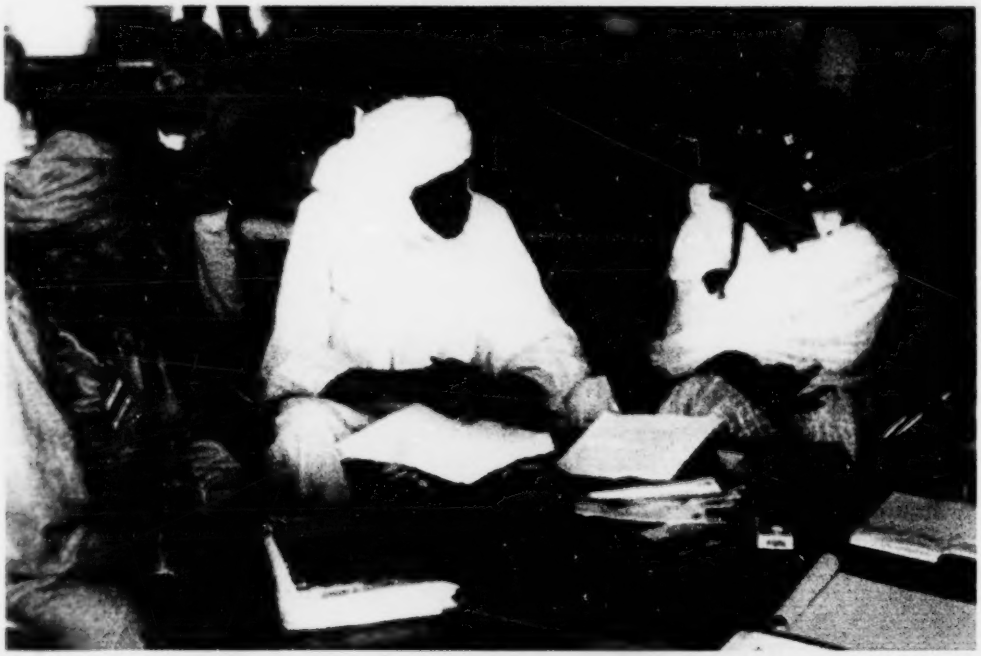
Introduction

Over the last five years considerable momentum has built up within African indigenous peoples' organisations. Nonetheless, indigenous organisations in Africa find themselves at a disadvantage compared to movements on other continents. This is due to the fact that there is widespread poverty on the continent, political and cultural repression, weak civil organisations, and a denial of aboriginality / indigenousness by both African governments and influential foreign players, such as development and donor agencies.

During the 1999 United Nations' Working Group on Indigenous People (UNWGIP) session in Geneva, the African indigenous peoples' movement experienced its most significant threat. Ironically this came from the UNWGIP itself, with the release of Don Alfonso Martínez's report on treaties. Martínez questioned whether all delegations from Africa and Asia could be considered indigenous, and suggested that some would do better at the UN the minorities' forum. This issue was extremely sensitive for African and Asian delegates due to the fact that certain African and Asian states deny that there is any such thing as indigenous identity. There was general outrage against the implications of Martínez's comments, although he explicitly included reference to the San peoples of Botswana as a clear example of an indigenous people in conflict with a member state. The issue of where the dividing line between indigenous peoples and minorities in Africa and other parts of the world should be drawn, will remain an intensely emotive and hotly disputed topic.

During the Indigenous Caucus Martínez explained that he was reflecting the views of those African governments which rejected any notion of there being distinct indigenous peoples. Through the Indigenous Peoples of Africa Co-ordinating Committee (IPACC), the African caucus was able to convene swiftly and agree on a statement that praised Martínez's observations on treaties and sovereignty, while challenging his right to surpass his given mandate (i.e., to comment on treaties, not pass judgement on identities). IPACC condemned the inadequate work done in Africa, Asia, Pacific and Russia. In all African societies the concept of indigenous peoples is widely recognised in folk culture and in linguistic designation. The African indigenous movement's ability to respond quickly and efficiently to Martínez is an indicator of the increased capacity of the movement. The challenge for African indigenous

peoples has been to mobilise themselves simultaneously at local, national, regional, and continental levels. Despite the enormous scope of the task, substantial achievements have been registered in the past decade, particularly as the UN Decade gains momentum and becomes increasingly visible.



Tuareg activists at Geneva, including West Africa Representative to IPACC Saoudata Aboubacrine and her gender deputy Zahra Mohammed (Foto: Nigel Crawhall).

The Decade and the UNWGIP process have led to the start of a number of initiatives around the continent. There are currently national or regional networks in North Africa (Tamaynut in Morocco and Amazigh International Commission for Development and Human Rights - CAIDDH - throughout the region), Southern Africa (Working Group of Indigenous Minorities of Southern Africa - WIMSA - in the San world, the new South African National Khoe San Forum), East Africa (PINGOs Forum in Tanzania) and Central Africa (Community of Rwandan Indigenous Peoples - CAURWA, and the emerging federation of Pygmy community organisations).

Three continent-wide networks have emerged in the last five years. The first network, the Indigenous Peoples of Africa Co-ordinating Committee (IPACC) was initiated by the Amazigh (so called Berbers) and Maasai alliances in

1996 and formalised at Geneva in 1997. IPACC has a secretariat in Cape Town with independent funding and organisational support from the South African San Institute. IPACC has regular bi-annual elections in Geneva, and an Executive Committee representing movements across the continent, including a gender representative. IPACC concentrates on assisting indigenous leadership improve their effectiveness at the international diplomatic level, and also assists in raising awareness amongst northern governments and donor agencies. IPACC has over 60 member organisations. Fieldwork and training have been conducted in South Africa, Namibia, Tanzania, Kenya, Rwanda and Morocco.

The second formal continental structure is the Association of Indigenous Women of Africa (AIWO). AIWO emerged out of the first conference on indigenous women in Africa held in Agadir, Morocco in April 1998. The conference, supported by the Netherlands Centre for Indigenous Peoples (NCIV) and Tamaynut, was a major success in mobilising women activists and their organisations. A book was published from the proceedings. Follow-up workshops have been held in Nairobi, and another is scheduled for Southern Africa. AIWO is a major continental player in its own right, and has the potential to ensure that gender equity and visibility remain priorities in other continental and regional structures.

The third continental structure emerged out of a human rights training workshop held in Arusha, Tanzania. The Organisation of Indigenous Peoples of Africa (OIPA), primarily regroups East and Southern African indigenous peoples' organisations. It has received institutional and technical support from the Saami Council and IWGIA.

The three continental bodies have concentrated most of their efforts on promoting communications between organisations, encouraging the sharing of experiences, and building up a common purpose for action. IPACC has lobbied the South African government, as well as a number of foreign governments including those of Norway, Canada and France, directly.

IPACC has also put resources into lobbying major international NGOs to develop clear policies on co-operation with countries with indigenous populations. Despite the adoption of such a policy by the EU, field trips in Morocco, Rwanda and Kenya indicate that European and North American NGOs do not have clear directives, and that there are some discrepancies between the various countries' offices. During major consultative exercises by UNESCO in Paris and the UNDP in Geneva, African indigenous peoples were grossly under-represented.

In contrast to other UN related bodies, the International Labour Office (ILO) has played a major role in stimulating awareness and policy formation on indigenous issues in Africa. ILO staff conducted visits to Cameroon, the Central African Republic, Morocco, Kenya, Tanzania, South Africa and Namibia. Very positive results emerged from South Africa and the Central African Republic in particular. All of the ILO work has led to the strengthening of indigenous peoples' positions.

The great strength of the continental bodies is that they help demonstrate that the principles of aboriginality and indigenous identity are found in most African countries. The experiences of the Bagyeli Pygmies in Cameroon are comparable to those of the ‡Khomani San in South Africa. And the issues facing the Tuareg in Niger can be compared to those of the Barabaig in Tanzania (e.g., securing land tenure with nomadic / seasonal migrations). This broader perspective helps move the debate away from defending specific claims on the ground, and towards a discussion focused on basic principles. The other advantage of having the continental bodies in place is their ability to use bilateral mechanisms to influence policy. South Africa is strongly committed to human rights on the continent and is willing to raise such issues in bilateral forums with other countries. Now that South Africa is on the verge of adopting an explicit policy favouring the recognition of indigenous peoples, this could have a strong impact on allies such as Morocco, Burundi and Namibia.

On the other hand, continental structures can only be as effective as their constituent parts. The level of organisational development amongst the different indigenous groups varies enormously, with many groups still entirely unrepresented in their own civil society structures. The divide between French and English speaking African countries runs very deep, and introduces cost burdens in any serious attempt to build continental unity and action. The great distances and weak communications infrastructure across the continent create another level of cost and difficulty.

In July 1999, the IPACC Annual General Meeting adopted a formal strategy document. The highest priority for IPACC is to ensure that South Africa takes a leadership role in the UN Commission on Human Rights. South Africa's endorsement of the current wording of the Draft Declaration, and its bilateral lobbying, might unblock the stagnation of the intersessional working group by bringing African countries out from the shadows and into the frontline of the work. An equally important priority is for African indigenous leadership to come together and work through a strategic planning process that will include all the players and accelerate the work on the ground and at Geneva.

335

The World Bank's Consultative Workshops

The World Bank, as part of its process of reappraising the Bank's Policy on indigenous peoples, organised two Workshops in Africa which were attended by indigenous peoples from different African Countries. The first workshop was held in Dakar, Senegal and attended by francophone and other West African countries. The other consultative meeting was held in Kampala, Uganda and was attended by participants from East Africa up to the Great Lakes Region. According to Professor Kinuthia Macharia, who was the consultant from the World Bank, Washington DC, some of the key issues raised in both workshops concerned what leverage the Bank was prepared to use in order to protect targeted indigenous populations. For example the possible withdrawal of government support and funding if a government ignores the development rights of indigenous peoples was mentioned, and the kind of support the Bank will provide the NGOs, especially those which genuinely represent indigenous peoples, was also discussed.

Participants were concerned that the Bank's policy could be divisive and may lead to unanticipated results if applied while a loose definition of the term 'indigenous peoples' persists. They were particularly concerned with the question of neighbouring communities who might be envious if only indigenous peoples were targeted for certain projects. It was feared that this could lead to animosity instead of unity between communities. They were concerned with the possible impact of policy on the delicate issue of national unity in African states, and the dynamic nature of settlement in Africa. In other words, could this bring about more divisions than already exist in Africa?

Participants who attended both workshops were concerned that most African governments are not open to what indigenous peoples have to say. The participants were afraid that the same Bank staff may be influenced to the detriment of indigenous peoples themselves and felt that there was a need to reappraise and understand how the present boundaries on the continent were created.

African Indigenous Women Organisation (AIWO)

Since its inception, in Agadir Morrocco in April 1998, the AIWO has been having consultative meetings with an ad hoc group, which was nominated during the first conference in Morocco. The African region is now divided into five sub-regions in order to facilitate co-ordination - the North, West, Central, Eastern and Southern Africa sub-regions. Each of the sub-regions is supposed to organise a conference to create awareness and also to recruit

members. So far only the Eastern Africa sub-region has organised its conference, which took place in Nairobi in August 1999. The other regions are planning their meetings this year.

The indigenous women of Africa formed the AIWO with the hope that it will grow as strong as other indigenous women's organisations in Asia and the Americas. Indeed at its inception, its members realised that they were embarking on a long journey, and so far they have used every opportunity to strengthen the organisation and make it more widely known. Attending the various meetings at the UN in Geneva and elsewhere has been very helpful. Thanks to the International Work Group on Indigenous Affairs (IWGIA), the Netherlands' Centre for Indigenous peoples (NCIV) and the United Nations Voluntary Fund, women were sponsored to attend both the United Nations Working Group on Indigenous Populations, the United Nations Draft Declaration, and the Permanent Forum. Participating in these forums also helped in planning the way forward for the Eastern Africa meeting and raising funds for it.

Sub-regional Conference in Nairobi

The Nairobi conference was attended by women representatives from Tanzania, Rwanda, Burundi, Sudan, Ethiopia, and Kenya. South Africa attended as an observer. The main objectives of the Eastern Africa Indigenous Women Conference were:

- to clarify the role of indigenous women as supporters of the communities;
- to strengthen indigenous cultures and traditions and;
- to give the indigenous women of Eastern Africa an opportunity to meet, learn, share and network together.

The conference came up with various recommendations. These involved working out a plan for the way forward, and making steps towards raising funds for strengthening the organisation both regionally and in the sub-regions.

The Nairobi conference proved a success and there was a great demand for a follow-up conference in order to make the women continue to be visible. The conference also opened new avenues for networking among indigenous women, and representatives from the sub-region attended several other meetings in 1999 creating more awareness about the activities of Indigenous Women from Africa. One such forum was organised in Lima, Peru by Chirapaq,

a non-governmental organisation that works for indigenous peoples in Peru, and is especially concerned with women and children who live in poverty. The meeting in Lima brought indigenous women together from every continent (for more details on this conference see the Latin American section).

Another event in which Kenyan AIWO representatives participated was the South African Parliament of the World's Religions held in South Africa from the 1st to the 8th of December 1999. The AIWO's presentation focused on the role indigenous people can play as peacemakers. Human rights advocates stressed the fact women's rights were human rights. Therefore women must aspire to be women's rights advocates. Mr Nelson Mandela, the former President of South Africa, Mr Nxuma the Vice President of South Africa and the Dalai Lama all graced the conference with their presence. It was really a worthwhile experience for African indigenous peoples.

Horn of Africa Pastoralist Advocacy Network (HAPAN)

HAPAN is a regional advocacy network formed as a result of two successive meetings that took place in December 1998 in Nairobi and in September 1999 in Addis Ababa. Representatives of pastoralist communities and other organisations working to promote the rights of pastoralists agreed on the importance of and the potential role that an advocacy network can play. In the Addis Ababa meeting, participants who came from Ethiopia, Uganda, Tanzania and Kenya shared their advocacy experiences and the achievements made during the consultative meeting in Nairobi organised by the Minority Rights Group of London, England.

HAPAN's mission is to promote and protect the rights of pastoralists through advocacy, research and lobbying activities and, through non-partisan approaches to issues, to promote the image of pastoralism as a dynamic way of life and a viable system of production. It also seeks to acknowledge pastoralists' contribution to the national culture and economy. Its two other main goals are to gain recognition for and appreciation of the pastoralist way of life in national, regional and local policy formulation and in the implementation of government development policies, and to promote the peaceful resolution of conflict and establish gender equity within and between pastoralist peoples.

THE IMAZIGHEN OF NORTH AFRICA AND THE SAHEL

The Imazighen, known commonly and in a pejorative way as 'Berbers', were the first inhabitants of the whole North Africa and the Sahel. Amazigh, the singular of Imazighen, means 'free man'.[1] The whole region, from the Canary Isles in the west to the western part of Egypt in the east and to Burkina Faso in the south, was called 'Barbary'. The Imazighen called it Tamazgdha. To the north, where the climate is Mediterranean, the populations are sedentary but to the south, in the desert region, the people are nomadic.

Throughout history Tamazgdha has suffered many different occupations - Phoenician, Roman, Vandal, Arab, Turk, Spanish and French. During the French colonisation of the 19th and 20th centuries, Tamazgdha was divided into states, and these remain in existence to this day. They are the Canary Isles (Spain), Morocco, Algeria, Tunisia, Egypt, Mali, Niger, Burkina Faso, Mauritania and the Western Sahara. With the Arab invasion of the seventh century, and the advent of colonial borders, the Amazigh population sought refuge in the most inaccessible regions, the mountains and the desert.[2] This is where we find the peoples that have safeguarded their language and their culture and have avoided arabisation today. They are the Rifi, the Shluh, the Soussie, the Rgibi, the Tuareg, the Qabilah, the M'zabite, the Djerba, the Shawia, the Nefousi, the Siwi, and so on. In the absence of a census along ethnic and cultural lines, the Amazigh population is estimated to comprise some 50 million inhabitants spread throughout North Africa and the Sahel. Today they represent no more than small linguistic pockets. This is why, even at the United Nations, they are spoken of as Berber minorities and not indigenous peoples. Such a distortion of historic reality has encouraged the divide and rule policy of the invaders.

Tamazight, which is the identity, culture and language of the Amazigh people, has never been free to develop. On the contrary, it has always been prohibited in the name of outspoken domination or in the name of a colonisation that does not declare itself. When the North African and the Sahel states finally achieved independence, the Amazigh people believed that they would at long last regain their identity and cultural heritage. But there was worse to come. In the name of Arab and Muslim nationalism, history has been falsified (just like during the French colonisation, in order to benefit French identity), glorifying Arabism and consecrating the Arab language, institutionalising texts and laws based on Islamic law. These texts (e.g., the Family Code in Algeria) either bear no relation to or are completely in contradiction with Amazigh

339

society and its norms and standards. Tamazight was not recognised and Imazighen who demanded their fundamental rights were severely repressed. Ignorance of the plight of the Amazigh peoples at international level was due to their exclusion from the media in these countries which were (and still are in almost all of these places) the monopoly of the state. It has to be said that the arrival of the internet has contributed considerably to making the Amazigh peoples, culture and language known.

When independence came the new states inherited lands and resources that had been snatched by the colonial powers from the indigenous peoples. Instead of returning these to their rightful owners, the new leaders shared them out. The resources automatically became the property of the state which, by increasing the number of 'development plans', managed to destroy most of the land by establishing industrial zones over the most productive areas. The few local initiatives were discouraged by the various governments' policies. Economy and business reverted to the leaders and their allies, who favoured the importation of international products. North Africa, which even in classical times was known as 'the breadbasket of Rome', was turned into a straightforward consumer of imported products overnight. This was to lead to the displacement of populations from the northern regions to the cities or abroad. The drought of the 1970s and the war fought by the governments of Mali and Niger led to a massive exodus of their Tuareg populations to Algeria, Mauritania and Burkina Faso. At the beginning of the 1990s, and following the embezzlement of the international aid that was earmarked for them, the Tuareg rebelled, accentuating the forced population displacements. The aim of all these policies was none other than to dislocate the indigenous peoples, who were clinging onto their values, their culture, their organisation, their links with the land, the Spirit and so on.

In 1994 and 1995, cease-fires were signed between the Tuareg movement and the governments of Mali and Niger. These agreements provided for the return of the refugees, the reintegration of the combatants and the development of the Tuareg regions in the north of the country. However, to date, none of this has happened. The refugees are settled on the outskirts of towns in Algeria, Burkina Faso and Mauritania, with no resources, no education for their children, and in a substandard environment. Abandoned to various contagious diseases such as tuberculosis, AIDS and childhood illnesses, the Tuareg population is on the verge of extinction. To all these problems must be added a birth rate that has virtually dropped to zero.[3]

Under Spanish colonial rule, the Canary Isles experienced the same problems of exodus and exile.[4] Almost a third of the Amazigh population of the Canary Isles (out of a total population of 1,631,798 inhabitants) emigrated to Venezuela or other areas of Latin America, making way for a similar number of foreigners to come and take over the main sources of the islands' income. The wealth of the islands in no way benefits the indigenous peoples. They make up 30% of the unemployed, and have no prospect of independence whilst the banks that control and hold all the profits are in Spanish hands. Alongside this there exists an increasing number of military bases, which irritates and concerns the indigenous populations. Unlike other regions of continental Spain, such as Catalunya, Galicia, the Basque Country and so on, where local specificities are recognised, the Canary Isles are not recognised as being specifically Amazigh. The Tamazight language is neither recognised nor taught, thus violating the European Charter for regional and minority languages.

Until the death of King Hassan II, the situation in Morocco was catastrophic. Oppression, repatriation, the disappearance of people, torture and the violation of fundamental rights being just some of the problems. Because of the proclamation of the 'Republic of Confederated Tribes of the Rif' on the 1st of February 1921, the Amazigh populations of Morocco were excluded from the social and political life of the country. This exclusion led to impoverishment, high illiteracy rates, and a total abandonment of these peoples, the aim being to force them into submission. The iron hand of the king prevented - or at least hampered - the Amazigh Movement from claiming its rights. When activists were not murdered they were arrested, tortured, imprisoned, these operations being followed up with reprisals against the civil population. Arabisation and the prohibition of the indigenous language, Tamazight, led to illiteracy amongst most Amazigh, who represent half the total population of the country. The names of people and places were prohibited, transcripts in Tamazight were severely repressed and publications prohibited. Now, a project for a "Charter for Teaching and Training" has been drawn up. Is this a new beginning or, as we are led to believe, merely a more effective form of arabisation? The Amazigh population has had no other option but to settle in the poorest regions (the south, the High Atlas, the Rif) or - like other Amazigh peoples - to leave for a lengthy exile.

In Algeria, the situation is even more dramatic. The arabisation of the populations has had catastrophic results, and not only in the realm of education. It has also led, and this can be particularly noted today, to acute Arab

JL 341

nationalism, fundamentalism, racism, discrimination, terrorism, illiteracy and the acculturation of the Amazigh population. Algeria always wanted to be more Arab than the Arabs, more Muslim than the Muslims. This was how the falsification of the history of North Africa began, assimilating it into the Arab world and separating it from its continent, Africa. This is what caused all today's difficulties. In the 1980s, the Algerian government severely repressed Amazigh activists and the Amazigh population [5] (300 arrests and arbitrary detentions, tortures, rapes, etc.[6]) who refused to be assimilated and instead demanded the recognition of their own identity and ancestral culture. On the 5th of July 1998, following the murder of the Amazigh leader and singer, Lounès Matoub, the Algerian authorities immediately relaunched a programme of arabisation. The Amazigh populations reacted violently, providing the government with a pretext to carry out repressive reprisals, with, amongst other things, the head of state making threats in their direction. The newly elected President, who had been long awaited and well supported by the Amazigh population during the Presidential elections, visited Cabilia (an Amazigh region in the east of Algeria) and on the 3rd of September 1999 declared that "Tamazight will never be official...it will become national only on the basis of a referendum". This declaration followed another on the occasion of his trip to the same region in which he stated, "From afar I saw them as giants, but close up I find them no more than dwarves". Discrimination is thus now official. This attitude caused anger amongst the Amazigh, both in Algeria and abroad and, following these declarations and if the Head of State holds a referendum on the Amazigh language which is the Imazighen's mother tongue, there is the risk of an outburst. On a socio-economic level, it is impossible to state what line is being taken towards the misery of the Amazigh population that rejects arabisation and integration, participation in civil wars and power struggles, and all ideology. Yet, prostitution, paedophilia, drugs, power abuse, hunger and deprivation have now been permanently introduced into this region. Is this meant to be a substitute for repression on the part of the armed forces and armed groups?

Can we speak of Imazighen in Libya, in Tunisia, or in Egypt, where minorities of Tamazight speakers can be found alongside Imazighen who have been assimilated and acculturated and deprived of any freedom of speech? The few scholars that have taken the initiative to study this issue have been forced to suffer constant surveillance from the police or the special forces, who fear seeing objective information disseminated abroad, where the state authorities of these countries have no control. This will also be the case with the new internet technology. Yet, in so many regions of these countries the Imazighen

speak and understand only Tamazight, which is their mother tongue and in which they express themselves, work and dream. Until these countries open up, it will be very difficult to give them much information on their brothers.

At the international level the refusal of many governments to recognise the Imazighen places a double sanction on those who are exiled or who have emigrated, as they are unjustly considered to be Arabs or fundamentalists. In the sphere of development, the refusal to recognise this non-arab, Amazigh specificity prevents the Amazigh people and organisations from obtaining any international aid for development projects, the promotion of local production, health and human rights. In the same way the United Nations' timidity in recognising Amazigh identity and culture has contributed considerably to their assimilation and their oppression and to the continuing hegemony of the rulers of the countries they live in.

The governments of North Africa and the Sahel still show no courage or political will to restore fundamental rights to indigenous peoples and minorities. When they do not prevent conferences or seminars on Indigenous Rights from being held, or misinform national opinion, they make the concept of indigenous rights taboo. Any solution therefore first requires the United Nations to recognise and pass statutes on indigenous peoples because, without international recognition, we will always be dependent upon the goodwill of those who dominate us. The United Nations must identify all the indigenous peoples and mention them - like all peoples - in official speeches and documents, taking care not to reduce them to 'small details'. Recognition at international level will almost certainly encourage the reluctant governments to make efforts to create space for constructive - rather than destructive - dialogue.

Notes

1 *Histoire des Berbères et des dynasties musulmanes de l'Afrique septentrionales,* by Ibn Khaldun, translated from the Arabic by Baron de Slane, 1925.
2 *Histoire de l'Afrique du Nord: Tunisie, Algérie, Maroc,* by Charles-André Julien, Payot, 1951.
3 *Histoire de l'Afrique du Nord: Tunisie, Algérie, Maroc,* by Hadj Mohamed Habaye, 1998.
4 *Denunciation on the colonial situation of the Canary Islands*, by Frepic-Awañak, 1998.
5 *Chronologie du Mouvement Berbère, un combat et des hommes*, by Ali Guenoun, Casbah Editions, 1999.

6 *Situation des Droits de l'Homme en Algérie et autres considérations*, by Samia Slimane, OMCT, 1999.

ETHIOPIA

The Oromo

Popular sentiment has it that incumbent regimes in Africa excel only in rendering the bad ones they replace with the undeserved status of the 'good old days'.

The declining poverty levels of poverty; bordering on famine, continued and violent suppression of any form of opposition and the ever-deepening inter-group animosities that could lead to sectarian violence have characterised Ethiopia in the year 1999-2000. To make things worse, the decade-old regime in Addis Ababa is determined to follow in the footsteps of all the Abyssinian-dominated regimes that have ruled the empire-state of Ethiopia for centuries. The states' propensity to proceed with the misplaced glories of warfare have rendered the Oromos hope for decent living conditions hostage to the whims of the warlords-turned-leaders of Ethiopia.

The Oromo nation has an estimated population of 28 million or 40-50% of the total population of Ethiopia. A smaller segment of the nation is to be found in the Republic of Kenya. It is the largest ethno-nation in the eastern half of Africa and the second largest in the continent. The Oromo belong to the ethno-linguistic group that includes the Somali, the Afar, the Beja, and the Sidama of North Eastern Africa.

The Oromo country extends from latitude 13 degrees north, not far from the border between Ethiopia and Eritrea, and runs south past the equator to the Galana creek just north of the Kenyan coastal city of Mombassa. However, most Oromo are concentrated in the more fertile southern half of Ethiopia.

Genesis of Triple Alienation

Like Imperial Spain in the Americas, it was not a trade but a conquest-based mission of forcefully 'saving' the natives from the 'evils' of their indigenous way of life and their spirituality, that brought the Oromo under the rule of 'Semitic' Christian Abyssinians (the ruling people of Ethiopia). As well as both being essentially theocratic empires, the two regimes employed similar models of colonisation to finance their respective missions. The Spanish *encomienda* system has its equivalent in the Abyssinian *gabbar* system. Both

centred on the premise of triple alienation: the extinguishment of native title over land, the labour pool of the family unit and the native identity being replaced by the 'blessed' soul of the conquerors. The combination of alienated land and enslaved family labour formed crown-owned estates, known as *goolt*-estates in Ethiopia and *encomiendas* in Spanish America. Such estates of the Ethiopian crown generated *gibbir* or revenue for the mission. From the second half of the nineteenth century, the Oromo families assigned to the *goolt*-estates, like the *encomendado* indigenes of Spanish America, constituted no more than crown-owned slaves.

The net effect of such 'contact' has been economic alienation as well as the alienation of indigenous identity or spirituality. Hence, such a legacy underpins the current identity and resource impoverishment of the Oromo nation.

This alienation, despite the change of regimes at the centre and the less-than-ideal economical and social effects that it has engendered, remains the dominant feature in Oromo-Ethiopia relations. The continuing Oromo efforts and demands for the reversal of their imposed condition, as illustrated by the ongoing appeal made by the *Gada* parliament (a pale imitation of what was once the indigenous government of the Oromo) has been a central issue of the year.

Oromo Indigenous Parliament (Gada) in Session (Foto: Liban Wako Adi).

345

The Oromo in Kenya

The Boran, Gabra and Tana-Orma (Wardai) are segments of the Oromo who were once part of British East Africa. They share many of the post-colonial conditions that affect marginal and pastoralist groups such as the Maasai, the Turkana and the Samburu in Kenya. The British model of colonisation led to the extinguishing of native title over land and labour (which went to the British crown). Such land became the farm-estates of British colonists. The registration and allocation of native labour to the colonists' farms led to what some call the practice of 'Posho slavery' (*posho* being the maize-meal ration fed to native labour). The legacies of native land alienation are yet to be fully reversed as the post-colonial State of Kenya has assumed the status of *de facto* crown. The creation of a Kenyan parliamentary committee to look at land title has also been notable during this year.

The Position of Women

In the pre-conquest era, the condition of Oromo women was dictated by the patriarchal and sexist norms associated with many cultures. Polygyny continues to be a common practice, especially amongst the Moslem Oromo communities. Property ownership and inheritance rights were generally the domains of the male. As a result, an informal female association known as *Siqqee* has challenged gender-based oppressions. Today, as part of the Oromo resistance against the occupying Abyssinians, there is a growing female participation both in armed and political efforts. But women's contribution, so far, has presented a dilemma. Female participation is highly sought but remains unrecognised and devalued, according to Oromo female nationalist Kuwee Kumsa. Although there has been a significant increase of female participation in education in Ethiopia and Kenya.

Enduring Alienation, Illusive Native Title and Ongoing Resistance

There are no indications of any improvement in the already-precarious economic and social conditions of the Oromo. Poverty has increased and famine conditions are widespread with the prevailing and cyclical drought. This situation is aggravated by the war between Ethiopia and Eritrea. Forced recruits of young Oromo and the appropriation of resources sustain Ethiopia's war. Hence, the levels of mass discontent have intensified, manifested through the familiar signs of simmering inter-group rivalry.

Political marginalisation and the lack of an independent political process have resulted in the continuation of Oromo armed resistance under the Oromo Liberation Front and other groups. This has led to a rise in State-sanctioned

and State-instigated violence against Oromo communities suspected of harbouring or supporting the resistance. The extra-judicial imprisonment and killing of Oromo peasants and members of its small middle class have increased. International human rights groups such as Amnesty International and Africa Watch have registered many of these abuses, as well as those reported by local human rights activists. The phenomenon of 'unmarked' prison cells in the middle of suburbia and the disappearance of political opponents have become a norm here.

Regional Geopolitics and the Oromo Cause

The region formed part of inter-superpower rivalry during the Cold War period. The proximity of the Arabian oil fields and the fear of Soviet expansion into Sub-Sahara Africa led to the strategic and military marriage-of-convenience between the West and Ethiopia, under the regime of Emperor Haile Selassie I. Today, Islamic Fundamentalism and the perceived threat from it has revived the old politico-military alliances. The year has seen newly forged inter-state alliances, such as that between Ethiopia and Kenya, targeted at fighting what they call, 'troublemakers'. Forced deportation of Oromo refugees from the neighbouring countries to the the Ethiopian security forces has been reported. As has been the tacit provision of free passage to Ethiopian security squads, aimed at assassinating Oromo community and political leaders based in adjacent countries. Regional or extra-regional alliances have undermined the cause of the Oromo and other non-Abyssinian groups who constitute the great majority of the total population of Ethiopia.

What the Future Holds

The conditions of triple alienation and all forms of resistance continue. There is a modest but increasing awareness of the plight of the Oromo people around the world. Self-help organisations amongst the Oromo at home and in diaspora are emerging. The role of Radios' 'Voice of Oromo Liberation' as an independent source of information will grow. Externally-based groups, such as the Oromo Studies Association, Oromo Students Associations, Oromo Support Group (OSG), Jiru Jireen Afrika, are contributing to the national effort. Like the Ogoni of Nigeria, the Oromo cause stands for the restoration of native title over the material and spiritual wealth of their nation.

For further information on the Oromo, please contact:

Oromo Support Group (OSG), The Willows, 6 Orchard Road Malvern, Worcs WR14 3DA UK (Email: 100674.3200@compuserve.com) <www.oromo.org>;

347

Oromia Online, is an Oromo site on the internet and provides information on Oromo culture, history and regularly updated news on human right situations. It can be found at <www.oromia.org>;
Voice of Oromo Liberation (Radio SBO), Postfach 510 610, 13366 Berlin, Germany;
Jiru Jireen Afrika (Email: Jirujireen@interspeed.com.au);
Oromo Studies Association, C/- 1643 D Spartan Village, East Lansing, MI 48823, USA;
Amnesty International
Africa Watch.

KENYA

1999 was an important year for the indigenous peoples of Kenya. Important discussions relating to the rights of pastoralists took place and a wide range of activities were initiated to create awareness about indigenous peoples and their situation in Kenya, and to try to improve their wellbeing and their rights.

The Debate on the Constitutional Review

In 1997 it was decided to review the Kenyan constitution, and in 1998 a Review Commission was set up. It has 25 members - 13 nominated by the political parties and 12 by civic organisations. The latter represent a broad spectrum of interests: three come from the three dominant religious denominations (Catholicism, Protestantism and Islam); five are nominated by women's organisations; and four are nominated through the National Council of NGOs and represent indigenous pastoralists and youth, disabled and professional associations. Not represented in the Commission are the Hunter-Gatherer communities (and other smaller tribes), the labour movement and the unemployed. The political parties, on the other hand, have not been able to divide the 13 seats among themselves and decide who should represent them. The Commission has therefore not been able to start its work.

The Kenya Pastoralist Forum has been active from the start, and in 1999 a number of conferences, workshops and meetings for affiliated organisations were organised. The idea has been to inform members - and through them pastoral communities - about the process, to discuss various issues and eventually to reach some recommendations which will be presented by its representative to the Commission. Everybody agrees that the process will be difficult and that it will be a hard task to involve the grassroots as many people have little understanding of what is at stake or may not even know that Kenya

has a constitution! The KPF identified the following as some of the main issues of interest to pastoralists.

Land tenure and land rights including the exploitation of natural resources, which today is under the control of the central government but which should be devolved to local people who should have the right to decide. Locals should also be fully in charge of the revenues accruing from wildlife resources.

Government system and parliamentarian representation, on which two positions can be found - the devolution of power to the local level or a federal system. Abdi Umar from the KPF considers that 50% of the population would be for the devolution of power, and 50% against it, the latter point of view being held by the two large ethnic groups, the Kikuyu and the Luo.

New criteria for forming constituencies should be defined as the present system has led to a gross under-representation of the 80% of the country that is inhabited by pastoralists.

Human rights - Pastoralists are seen and treated as second class citizens. Affirmative action should be taken to redress this situation

Women's rights - A big issue is that of women's inheritance rights.

Right now, however, there is a deadlock in the constitution review process due to disagreement over the modalities that should be followed in obtaining peoples' views. It is expected that the exercise will be a participatory one and will involve all stakeholders, experts and relevant professionals.

Conflict Resolution Efforts Among the Northern Pastoralists

Land alienation, competition over grazing areas, livestock, water and politics lie at the root of many of the conflicts Kenya has witnessed for the past several years. Cattle rustling has always been a traditional economic survival strategy as it was the only way of re-stocking herds. The Morans (Maasai and Samburu warriors) used it to obtain cattle in order to pay their bride price and get married. And, to a certain extent, cattle rustling still occurs as a result of both these above reasons. But it has also become a highly commercialised activity supported by high-tech weaponry and trucks that take the cattle across the border to be sold.

Ethnic conflicts may occur between pastoral and non-pastoral tribes when there is competition for natural resources as, for example, in Marsabit in the north where different tribes use the resources of the Marsabit mountain - some for pastures, others for agricultural purposes. Such conflicts will sometimes degenerate into ethnic clashes. This has been the case several times between, for instance, the Maasai on the one hand and the Kisii or the Kipsigis on the other, resulting in the loss of many human lives, burned houses, and the loss of cattle.

Clashes also occur within the same tribe. They may happen when people who have been pushed out of the pastoralist system try to settle and, for instance, make use of an irrigation scheme, thereby blocking access to land for those who have remained pastoralists. A similar situation is created when there has been a parcelisation of land, and people put fences up and practice intensive cattle ranching.

Most valuabel lifestock: Samburu woman watching the camels leave the kraal (Photo: Indigenous Information Network).

Some of the most severe conflicts, however, occur between pastoralist tribes in the north, where competition over grazing areas and water is severe. The Pokot-Turkana have conflicts about cattle rustling, with people even coming across the border from Uganda. The people in Isiolo and Marsabit have clan

disputes over pastureland and water. The north has a long tradition of these types of conflicts but today they tend to degenerate into veritable massacres and war-like conditions because both sides are well armed. The problem is how to handle this new situation, and how to become aware of the responsibilities and privileges one has, as well as what the cost of conflicts are. In the north, the communities operate outside normal state structures. They have always been subjected to heavy-handed state operations and human rights abuses. Outsiders, who are seen as invaders, occupy all the official posts - from teachers to local administrators. This has made people suspicious and hostile. They do not trust the government but live in a world where violent situations (either man made or created by nature) are everyday events. People are vulnerable, risk is the number one element in their lives but the death of one person is normal since the clan will always prevail.

Politics plays an important role in kindling small controversies and creating ethnic clashes. It is a well-known fact that most Kenyan politicians depend on supporters with whom they have tribal links. The existence, so to speak, of these politicians depends on tribal differentiation, and they would lose ground if tribalism were to be extinguished. An example is that of the Ogiek, whose harassment by the local authorities is seen as retaliation for not having agreed to join the Kipsigis in their attack against the Kikuyu in the mid-1990s. The government is also involved. When Kenya adopted a multiparty system Moi, who opposed it, predicted an increase violence, and many clashes are believed to have been fomented in order to prove him right.

Efforts are currently being made to improve the situation. A Judicial Commission has been set up to inquire into tribal clashes since 1991, and it has already heard more than 170 days worth of testimonies. Although it will probably not solve anything nor lead to any action, it is generally thought that the exercise is useful, as it brings the various conflicts out into the open.

Conflict resolution, peace and reconciliation have become the new mantra of many NGOs working in the north. Meetings, seminars and workshops are being organised so that representatives from the various tribes can meet, and discuss and exchange ideas on how they can settle their disputes. The whole process appears rather donor-driven. Still everyone seems to think it is a good idea, and that it eventually will solve the problem. However, it seems that while many elders are very committed and attend one workshop after the other, the younger ones, i.e., the warrior age group who are the core of the problem, do not seem interested and continue to do whatever they like. And with a constantly growing population and a constantly deteriorating environment, competition will become even fiercer. Some people, therefore, talk of

the need to systematise ways in which one clan can receive other clans into, or remove them from their homelands. This presupposes the recognition and demarcation of clan lands, and the use of customary laws and regulations.

The Iloodoariak's Land Adjudication Bill

While it is the case that land alienation occurs or is a threat in most Maasai areas, it is near and around Nairobi that the situation is most acute, since the land has much development potential and a high market value. The land of the Iloodoariak community lies some 20km from Nairobi, near the attractive Karen and Ngong suburbs. This explains why very highly placed persons were interested in declaring the Iloodoariak Group Ranch an Adjudication Section in 1979. In fact this made it possible to replace the old Land Register which carried all the original Group Ranch members' names with a new one in which some of the members' names were substituted for those of outsiders, mostly high ranking persons without any connection to the land, who were later given title deeds.

Realising what had happened, the Iloodoariak community started to fight back. With the support of the IIED (International Institute for Environment and Development) and Survival International, they documented their case and drafted a bill. This bill addresses the situation of not only the Iloodoariak but of other pastoral groups in general by allowing the nullification of title deeds based on fraudulent land grabbing. The bill also provides a mechanism for the local people to have a say about how land is administered. Since most land is in pastoral areas, if the bill becomes law there will be no more land grabbing.

For the past two years, the Iloodoariak have been lobbying for the bill to be gazetted and tabled in Parliament and, in May 1999, it was finally published in the Kenya Gazette Supplement. This meant that the bill was available for public scrutiny. On the 4th of July 1999, the bill was presented to Parliament for a first reading. But after that the bill disappeared and it looks as if there will be no second or third readings. This seems to be the result of the appointment of a Land Commission in late June by the Economy recovery team headed by Dr Richard Leakey. This Commission was to look into the issue of land grabbing. However, according to Mr Joseph Ole Simel, the Iloodoariak's programme co-ordinator, this was in fact a calculated move to kill the bill. Not only can the Commission only make recommendations, but the bill cannot go back to parliament before the end of the Commission's tenure which is two years from now and will coincide with the end of the present parliament. Furthermore Dr Leakey's family is involved in the land

grabbing issue and Dr Leakey is therefore an interested party and not the right person to address this issue.

Still, the Iloodoariak Land Bill Founders have at least achieved one thing. In spite of being a small group, they have made the government admit that irregularities have taken place. Lawyers are now preparing a memorandum to be submitted to the Land Commission highlighting that the only solution is that the proposed bill should be presented to parliament for a second and third reading. The Iloodoariak are also calling for local and international support to put pressure on the government to solve the pending land problem. If the Land adjudication Amendment Bill passed is passed, it will be the greatest achievement of Kenya's indigenous peoples in the 21st century.

Military Training Endangers Indigenous Peoples

The Kenyan, British and US armies - either as a joint venture or on a country by country basis - have for many years now regularly used the open areas of Laikipia, Samburu, Isiolo, Marsabit and Moiyale districts for military exercises. The exercises are conducted each year between the months of January to June and September to December.

The training exercises are carried out regardless of the settlement pattern and without prior consultations with the local people. During the exercises the military leave behind a great deal of unexploded and dangerous ammunition. This ammunition has killed or maimed many people as well as many grazing animals. The latest incident happened on Wednesday, April the 19th when four children were killed by powerful explosives on the British Army training field in the Archers Post area in Samburu District. A fifth child lost his leg and an unknown number of livestock were killed or injured as well. More than 500 residents of the Archers Post training centre staged a protest march on Friday the 21st demanding compensation for the affected families because since the beginning of training operations they had asked that the army should leave their area or at least fence off the training field.

The environment suffers just as much - trees are cut down, holes are dug for cover exercises, pastures are eroded or destroyed by heavy military equipment and poisonous gases cause water pollution. Furthermore, the military draws water from the same watering points as the local communities, using water trucks mounted with power driven engines that facilitate quick water drawing and which thus, during times of low rainfall, create water shortages that affect the livelihood of the pastoralists and their animals. Other damaging effects are caused by the military's use of drugs and commercial sex in which young schoolgirls become involved.

Yet, the land on which the military exercises are being carried out is private land that is communally owned by and registered in the names of various group ranches under 'the group representatives act', Cap. 267 of the Laws of Kenya. It is thus a blatant violation of private property ownership rights.

However a survey which the Laikipia based indigenous Maasai organisation OSILIGI conducted, shows that due to lack of know-how or fear of harassment from the authorities, local people have no single remedy to address these issues. OSILIGI has therefore decided to embark on a campaign to publicise the facts and hold a regional workshop with representatives from the affected pastoralist groups as well as government and NGO representatives. Their aim is to further document and explore the impact of military training on pastoralist groups' rights over their traditional lands, their survival and issues related to their environment and natural resources.

The Case of the Ogiek

The Ogiek people of Kenya's central Rift Valley have lost the first part of a legal battle over their habitat and heritage. On March the 24th 2000, a Kenyan court handed down a ruling that the judges characterised as benefiting the environment after the indigenous community sought to block a government eviction order to remove them from a natural forest. "The eviction is for the purpose of saving the whole of Kenya from a possible environmental disaster and it is being carried out for the common good within the statutory powers", judges Samuel Oguk and Richard Kuloba said in a summary of their judgement. The judges said their verdict was aimed at people who have made homes in forests and are exploiting forest resources without following statutory requirements. Yet the Ogiek have alternative land that was given to them in colonial days, land which is not inhospitable, the judges said.

The Ogiek people live in the forests of the Mau escarpment in Kenya, 250 kilometres (155 miles) west of Nairobi. Identifiable by their traditional regalia of skin-wrappers and handy clubs, they still hold to their traditional way of life and regard the forests as their natural habitat. These forests are one of the most important forest ecosystems and water catchments remaining in the country. By tradition, the Ogiek, often referred to as Dorobos, are a hunter-gatherer people, known as harvesters of honey, which they use for home consumption and which they exchange with their neighbours. They have been living in these forests and have been practical conservationists since time immemorial.

Caught between a cultural conflict and political imbalances brought about by modernity and civilisation, the Ogiek took the government of Kenya to

court in May 1999 for evicting them from their ancestral forestland. The Ogiek Welfare Council demands that the Ogiek of Tinet be allowed to stay in Tinet Forest. This demand is being made on behalf of 5016 members of the community and an additional 800 Ogiek people not included in the court list.

The Ogiek were alarmed by a group of corrupt individuals invading the forestland that they, the Ogiek, had previously inhabited before they were evicted by the government. In their view, the government is not being honest when it says it is protecting the environment for the common good. The Ogiek accuse some powerful individuals close to leading politicians of wanting to grab their ancestral land. Even as the Ogiek shed tears about the loss of their ancestral land, large chunks of this land have already been given to private individuals.

They sued the government in their attempt to obtain a declaration saying that that their right to life had been contravened by forceful eviction from the forest. They were also seeking orders for the government to compensate them and pay their legal costs. The court dismissed all their petitions but assigned the legal costs to the Kenyan government.

Human rights groups accuse the government of being insensitive to the community's basic needs, saying that the Ogiek's right to land and natural habitat has been trampled on for too long. They have called upon the government to revoke the eviction order so that the community can live in peace in the forest.

The plaintiffs, representing the 5016 members of the Ogiek community, brought their case to court. Their lawyer was Joseph Seregon who was assisted by Mirugi Kariuki, the lawyer for the Nakuru Catholic Diocese, who was allowed into this case because of its 'substantial investments' (i.e. churches, schools, marketplaces) in the area. In its ruling of May the 5th 2000, the Kenya Court of Appeal ordered a stay of execution of the High Court Decree of March the 23rd 2000. As a result the Government of Kenya was restrained from evicting the Ogiek people, pending the outcome of an intended appeal. The Attorney General, the Rift Valley Provincial Commissioner, the area's Provincial Forest Officer and the Nakuru District Officer, who had all joined in efforts to evict the Ogiek people, will now have to suspend their plans to relocate the Ogiek to the edge of the forest.

The Court of Appeal's decision to grant the Ogiek a stay of eviction was reached both because it was found that such a move would have far-reaching effects on their livelihood and in order to avoid a major upheaval. It was also clearly shown that the Provincial Forest Officer, a Mr Ezekiel Korir, had lied by denying that the Ogiek had lived in the forest. A copy of the 1936 popula-

tion census was produced from the Kenya National Archives, clearly showing records of the Ogiek people living in their Tinet Forest homeland. But the suspension of the eviction is now pending the outcome of the intended appeal. The community, which insists that it has lived in and from that forest since time immemorial, has until the 23rd of May to present the appeal.

There is an urgent need for local and international support to pressurise the government to grant the Ogiek the right to their heritage.

Sources

Ecoterra news mail 'Ogiek Eviction Stopped', May the 6th 2000

Girls' Education Workshop

In many parts of Kenya, and especially within pastoralist communities, girls face more disadvantages in terms of access to education. Such discrimination is rooted in cultural attitudes and practices. Between the 6th and 8th of December 1999 the IIN (Indigenous Information Network) organised a Workshop on Girls' Education in Pastoralist Areas. The theme was 'Constraints on Girls' Education in Pastoralist Communities'.

The Netherlands' Development Organisation (SNV) sponsored the workshop while the Indigenous Information Network planned, co-ordinated and conducted it. Prior to this meeting the IIN had consulted different communities about the plight of girls' education in pastoralist areas.

The members of the communities shared their experiences of girls' education. They expressed crucial and unique points of view, which were later discussed at the workshop by the heads of NGOs' education departments and community members from pastoral areas. The workshop covered a wide range of issues with a special focus on the situation in the Samburu, Isiolo and Marsabit districts. Participants also came from the Pokot, Kajiado and Laikipia districts. The specific objectives were to promote girls' education, share information with other education providers and discuss ways to monitor and evaluate the way stakeholders were managing education

The workshop came up with various strategies to solve education problems facing girls. These included: making education accessible through sponsorship and scholarships; adapting school curricula to pastoralist communities; changing attitudes towards education (i.e., showing that education is for knowledge and not primarily for employment); providing mobile schools and teachers; encouraging non-formal education; and giving a separate bursary scheme to pastoral areas.

The IIN intends to address the problem of delivering cost effective education in a form and approach that is appropriate to girls. This is in recognition of

the need to take the initiative in providing formal education to marginalised groups so as to enable them to participate effectively in the development process. To initiate the process, the IIN intends to continue holding awareness workshops on girls' education.

THE GREAT LAKES REGION

During 1999 there has been no significant improvement in the situation of indigenous communities in the Great Lakes Region. Indigenous organisations have however been active in promoting national and international awareness and pressing for changes.

Networking

Last year saw an increased level of networking and contacts between indigenous groups. In June 1999, the Rwandese and Congolese Twa organisations CAURWA and PIDP collaborated in a joint tour to meet Twa communities and local authorities in Uganda, Burundi, Rwanda and the Kivu region of Democratic Republic of Congo. Contacts were reinforced at the celebrations of the seventh International Day of Indigenous Peoples, organised by PIDP, on Idjwi Island, Kivu in September 1999, which brought together 450 Twa representatives from Congo, Burundi and Rwanda as well as local officials and NGOs.

Also in 1999, PIDP and the Cameroon Bagyeli organisation CODEBABIK collaborated in an IWGIA financed tour of Cameroon, the Central African Republic and Gabon, to visit Pygmy communities and organisations working with them. In February 2000, CAURWA again visited Ugandan Twa communities around the Mgahinga and Bwindi National Parks as well as local authorities and religious groups carrying out literacy and education programmes with the Twa. The Twa who have been moved out of the national parks are landless and no longer have access to forest resources. They eke out a miserable existence by labouring on other people's land in return for food, and face continued discrimination by other ethnic groups. These communities have now established the United Organisation for Batwa Development in Uganda (UOBDU), to strengthen their voice in pressing for land to be allocated to them. UOBDU representatives are in contact with the Rwandan Twa organisations, with whom they share the same language. A Minority Rights Group funded study of the Twa of the Great Lakes region,[1] followed by a workshop in Kampala, brought together Twa representatives from Rwanda, Burundi

and Congo. The participants developed a regional plan for training and the promotion of human rights.

All these networking activities have helped strengthen solidarity among Twa and Pygmy organisations in central Africa, by promoting collaborative work and the exchange of information and experience between different Pygmy groups living under different conditions.

Advocacy

During 1999 Twa, Mbuti and Bagyeli representatives attended several international and regional meetings on indigenous rights. These included: the UN Working Group on Indigenous Populations, held in Geneva in July and the UN Working Group on the Draft Declaration on Indigenous Rights held in Geneva in November; a World Council of Churches meeting on African Indigenous Peoples; a meeting on Land and Spirituality in Kigali in September; a Conference of Indigenous Women in Nairobi; a World Bank workshop on Indigenous Peoples of Africa held in Kampala in June and; a meeting organised by the World Health Organisation on Indigenous Health. PIDP was nominated to sit on an indigenous advisory committee established by the WHO meeting.

Central African indigenous representatives are contributing to a review and evaluation of the implementation of the World Bank's Indigenous Peoples' Policy (Operational Directive 4.20) organised by the UK NGO Forest Peoples Programme and the Washington based Bank Information Centre. Bagyeli and Twa representatives have prepared case studies on respectively the impact of the World Bank underwritten Chad-Cameroon oil pipeline on the Bagyeli people in southwest Cameroon, and the World Bank funded cattle ranching and cash crop projects which displaced the forest dwelling Twa (Impunyu) of the Gishwati forest, Rwanda. An additional study is being prepared by the Forest Peoples Programme, in consultation with Ugandan Twa communities, on the impacts of the World Bank-funded Mgahinga and Bwindi Impenetrable Forests Trust, which is supposed to carry out activities to mitigate impacts of the Parks on the Twa. In May 2000 a total of 12 case studies were presented by indigenous peoples from around the world to the World Bank, with the aim of determining why the principles and practices set out in the Indigenous Peoples Policy are not being implemented, and to press the Bank to modify projects which are harming indigenous peoples.

To facilitate a platform for Twa advocacy and information dissemination, a Pygmy web page has been created by the Congolese Human Rights NGO Héritiers de la Justice in collaboration with the Forest Peoples Programme at

www.heritiers.org. The page is under the editorial control of the Pygmy organisations CAURWA, PIDP and CODEBABIK. In addition a short video "People of Clay: the Twa of Rwanda", which sets the Twa situation within the context of the international indigenous rights movement, is being produced by CAURWA in collaboration with the Forest Peoples Programme.

Rwanda

At the national level CAURWA has continued to call for the recognition of Batwa concerns and the legitimacy of referring to the Batwa by name, given that this minority group does not pose any political threat to the stability of Rwanda. CAURWA has taken the initiative to write a letter to the President of Rwanda setting out Batwa concerns and highlighting the lack of significant change in the situation of the Batwa since the new administration came to power five years ago. Following complaints by Twa representatives that the Committee for National Unity and Reconciliation has only focused on the two most numerous ethnic groups, the Committee is working with Twa representatives to carry out visits to Twa communities to assess how they are being included or not in the post-genocide reconciliation process and thus in the reconstruction of an integrated society. The Twa organisations' increased activities and contacts with authorities have resulted in a higher national profile for the Twa as a result of radio and TV broadcasts. An independent review of the BBC's Rwanda Service recommended greater coverage of the interests of minorities, including Batwa issues and the participation of Batwa in programme production.

The overall situation of the Twa remains unchanged with many communities lacking land and the access to education and employment. The Twa are still severely marginalised in society. Many donors are unaware of the Twa's inability to access development programmes. At commune level, government programmes frequently do not reach the Twa who lack the confidence and status to demand inclusion. The Twa are very dependent on the Twa organisations to ensure that their interests are voiced.

A national villagisation programme is underway to regroup households into discreet settlements, apparently to provide more effective services and land utilisation. Households which are currently scattered across the hillsides must swap their lands for plots in the new villages. However, majority of the Twa lack land and so have nothing to exchange for village plots. In many areas they live in flimsy huts built of sticks or maize stalks, perhaps with some plastic sheeting, squatting on the edges of the fields and plots of their land-holder neighbours.

One of the Rwandan Twa organisations, ADBR, has obtained authorisation to visit Twa prison detainees, who are estimated to number about 2500. Working in collaboration with church and human rights organisations, ADBR has surveyed prisons in the greater Kigali area. The Twa prisoners are in very miserable conditions. Only two out of the 150 individuals surveyed have come to trial. Families cannot afford to visit or supply clothes, soap or food. Blankets and food that are distributed inside the prisons do not reach the Twa. ADBR is seeking help from local agencies for clothes, blankets and is in contact with a local human rights group to obtain a lawyer to help move cases forward.

At grassroots level, some 20 Twa associations or co-operatives have established themselves to carry out a range of community activities such as agriculture, animal husbandry, literacy, pottery and house construction. The Twa organisations provide financial and material support for these activities. Some two hundred school children are currently being supported by Twa organisations. CAURWA is working to increase the revenues of Twa potting communities by developing the internal and external markets for Twa pots, through technical and business support based on fair trade principles and the establishment of a sales outlet in Kigali.

Kivu, Democratice Republic of Congo

The situation in Kivu has deteriorated since last year. Pygmies are accused by both the Mayi Mayi/Interahamwe militias and the Rwandan backed RCD rebel forces of complicity with the other side, and are consequently continually fleeing from one group or the other. Large numbers of displaced and destitute Twa and Mbuti have arrived in Bukavu where there is no agency taking specific care of them.

Despite the insecurity in the region, the Twa NGO PIDP has continued its activities, visiting Pygmy communities in the field and supporting their agricultural activities and animal husbandry as well as seeking humanitarian aid from local agencies (blankets, clothing, food, cooking utensils) for displaced Pygmy families. Some communities have succeeded in harvesting crops and raising pigs, guinea pigs and chickens, but many have had their produce looted by militias and RCD soldiers.

PIDP has also encouraged the creation of grassroots committees composed of representatives chosen by the Twa communities themselves, and working with PIDP's field workers. PIDP's expanded committee consists of elected representatives from different territories who are responsible for overseeing PIDP's activities in their area. Their main activities are to promote

literacy and school attendance, to collect information about the local situation and monitor those projects that are underway in their area. PIDP has recruited two additional women staff to support its work with women in development, health and hygiene.

The dire situation of the Twa expelled from their traditional lands in the Kahuzi-Biega National Park, Kivu, has been documented in a report to be published shortly by IWGIA and the Forest Peoples Programme.[2] The report explores this particular case within the context of indigenous rights in Africa. It discusses various legal mechanisms available for the restitution of Twa rights and presses for participation of the Twa in decision-making and park management in line with modern conservation policies.

Notes

1 Jerome Lewis. *The Batwa Pygmies of the Great Lakes Region: the Problem of Discrimination.*

2 Albert Kwokwo Barume with Dorothy Jackson. *Heading towards Extinction? Indigenous Rights in Africa: The Case of the Twa of the Kahuzi-Biega National Park, Democratic Republic of Congo.*

BOTSWANA

The Controversy over the Central Kalahari Game Reserve

The controversy over the Central Kalahari Game Reserve calls for continued unified efforts to obtain recognition of the land rights of the population within its boundaries. The CKGR Negotiating Team, the representative body of the residents in the Central Kalahari Game Reserve, supported by First People of the Kalahari (FPK) and other NGOs are continuously trying to maintain a dialogue and negotiations with the Government of Botswana.

The CKGR controversy has lasted for over a decade and has considerable symbolic significance for the San population in the entire Southern Africa region. The Central Kalahari Game Reserve (CKGR) is, at 52,000 square kilometres, the last vast refuge in which San communities are provided with the means of practising their traditional culture. When the game reserve was established in 1961, George Silberbauer, assigned as officer-in-charge of the official Bushman Survey, recommended that the area "be declared a game reserve and the Bushmen be allowed to continue to hunt freely within it." However, proposals from Silberbauer and others to formalise 'Bushman' rights over the CKGR as well as to establish development programmes for the area were shelved during the ensuing transition to Botswana's independence. Since

the mid-1980s Botswana's government has attempted to remove the population of the CKGR, as development and nature conservation objectives were considered to be incompatible with one another. In 1997 a major part of the population was resettled in two resettlements, New Xade and Kaudwane, outside the game reserve, and government officials continued to press the remaining population to move.

In early 1999, the Department of Wildlife and National Parks (DWNP) unveiled a draft of a new management plan for the Central Kalahari Game Reserve, allowing for the sustainable coexistence of people and wildlife within the game reserve. Although, community consultations had not yet been carried out, the management plan funded by the European Union provides for the remaining communities within the Central Kalahari Game Reserve to continue their traditional lifestyle and to be involved in eco-tourism. FPK has an ongoing constructive dialogue with the DWNP and welcomed the initiative, as it was presented to the Ghanzi District Council in July 1999, to begin community consultations. Initially FPK was invited to assist with the consultations on the ground. However, between August and the end of the general elections in October 1999, the consultation process ceased, apparently as a result of media reports about the return to the reserve of people who had been previously relocated.

Consultations with the CKGR communities inside the reserve were recently resumed without them being represented by FPK. This has led to the communities rejecting the consulting team because of their demand that FPK is present at talks with the authorities. At a recent meeting with the district authorities in Ghanzi it was agreed that future consultation visits be performed in collaboration with FPK. The agreement is a tentative sign that FPK are being recognised as an equal partner by the authorities and that the value of civic organisations in conflict resolution is being acknowledged.

Since the mandate of the CKGR Negotiating Team was rejected by the Minister of Local Government, Land and Housing at the last negotiation meeting in October 1998, the residents of the CKGR have registered their petitions and land claims through FPK. Although the rights of the CKGR residents have hitherto been denied by the government, the new regulations for National Parks and Game Reserves in Botswana, in place since April 2000, set down provision for persons who can lay claim to traditional hunting rights in the CKGR, to continue to exercise those rights. The former system of special hunting licenses issued by the DWNP for subsistence hunting in the Game Reserve and in Wildlife Management Areas will cease when the new regulations come into force. In July 1999 a group of 13 residents from the resettlement in New Xade carrying the special hunting licenses were arrested inside

the game reserve and charged with illegal hunting. The trial of the 13 hunters is set for the 3rd to the 5th of July this year.

FPK field workers mapping the traditional land use system in CKGR (Foto Ivan Baehr).

The new regulations for National Parks and Game Reserves also provide for community use zones to be designated for the benefit of communities living either in the game reserve or in areas immediately adjacent to it. FPK has embarked on a process documenting traditional land use pattern, kinship and the affinity that connects people to the land of their ancestors. Two FPK fieldworkers, residents of the CKGR, have been trained in survey and interview techniques. Communities in the CKGR have started mapping their traditional territories and land use systems, using modern satellite and computer technology (GPS and GIS). It is envisaged that the information gathered by the communities will be of interest to future natural resource management of the reserve and to environmental monitoring. The compilation of local knowledge will contribute to the environmental awareness of the communities and

JL 363

will be a valuable asset for the communities in cultural and environmental tourism related joint ventures.

It is expected that, as a result of these activities, FPK and CKGR communities will qualify as equal partners in those joint efforts aimed at protecting this unique environment on which the life of the residents depends. The recent public debate in Botswana shows that the private sector has a stake in the CKGR controversy, with the Director of Botswana's Association for Hotel and Tourism (HATAB) publicly blaming the Government for hiding the real reason for the resettlement policy. The Director of HATAB is concerned that the removal of CKGR residents will affect Botswana's tourist industry negatively if it results in an international boycott. He has asked the government to introduce a policy of community based natural resource management in the Central Kalahari Game Reserve. In his contribution to the debate the Director of HATAB suggests that diamonds were the real reason for the residents of the CKGR being resettled. However, De Beers, the large diamond consortium that has been prospecting for more than a decade in the game reserve, stated in an earlier press release that there is no conflict of interest between their mining ventures and the presence of the San people in the CKGR. This opinion was supported by the conclusions of an Environmental Impact Assessment of the Gope diamond mine carried out for the mining consortium in early 1999.

The private sector's recent contribution to the controversy over the Central Kalahari Game Reserve, is an indicator that the opportunities for dialogue and negotiations are not yet exhausted. These developments also show the importance of civic organisations and structures like First People of the Kalahari and the CKGR Negotiating Team as partners in a democratic model for conflict resolution. However, in case negotiations and dialogue fail, the residents of the Central Kalahari Game Reserve have taken decisive steps to prepare themselves for litigation.

Pending Execution of the Tlhabologang Maauwe and Gware Brown Motswetla

On the 15th of January 1999, at the instance of DITSHWANELO (the Botswana Centre For Human Rights), the High Court of Botswana issued an interim order suspending the execution of the two San - Tlhabologang Maauwe and Gware Brown Motswetla, both members of the San indigenous people of Botswana, which was set for the 16th of January 1999.

Tlhabologang Maauwe and Mr Gwara Brown Motswetla committed the offence of murder in February 1995. The deceased had caught them after they

had stolen and slaughtered an ox which had been in his care. They were pronounced guilty by the High Court of Botswana in April 1997 and sentenced to be hanged. Their sentences were upheld by the Court of Appeal in July 1997. In November 1998, their appeals for mercy to His Excellency President Festus G. Mogae were turned down.

From April 1998, DITSHWANELO had made repeated attempts to obtain information from the Botswana Government about the execution of the two men. However the response was always that such information was classified. All requests made by DITSHWANELO to visit the prisoners were also denied.

On the 13th of January 1999, the Botswana media announced that the prisoners' appeal for clemency to the President had been turned down and that the executions were scheduled for Saturday the 16th of January 1999. DITSHWANELO took immediate action and managed on Friday the 15th of January 1999 to make an urgent application to the High Court of Botswana to stop the executions of the two men. The Court then issued an interim order, suspending the execution.

The court gave the State until the 22nd of February 1999, to show cause why the two men should be executed. In November 1999, Judge Reynolds decided that the two men had been denied a fair trial. He set aside both the convictions and the death sentences that had been imposed on the two men and ordered a new trial. He also said that Attorney General Skelemani had both the right to decide on the *nature* of the charges to be brought against the men as well as the right to decline to prosecute at all.

Mr. Maauwe and Mr. Motswetla introduced additional grounds to those which had been brought by DITSHWANELO, namely that the "delay in carrying out the death sentence upon the two condemned men is cruel and degrading punishment" and also that "death effected by hanging by the neck is cruel and inhuman punishment". The second postponement was granted by the Judge in order to give the applicants more time to adequately prepare their case. The additional grounds included a challenge upon the constitutionality of capital punishment itself. Legal counsel for Mr. Maauwe and Mr. Motswetla contended that the death penalty has the effect of being applied in an arbitrary and discriminatory way in relation to the poor and illiterate, in contravention of the Constitution of Botswana. The Constitution provides protection for everyone against discriminatory laws, either in themselves or in their effect. The legal counsel also contended that they were accorded insufficient legal representation at their trial and appeal, rendering their trial unfair and in contravention of the Constitution of Botswana. Due to the difficulties in arguing

365

this case and its vital importance to the people involved, DITSHWANELO was forced to retain Advocates who had the necessary experience and specialisation to effectively challenge the death penalty.

Current Situation

At the time of writing this article, the date for trial has not yet been set. DITSHWANELO seeks to engage the same legal team which it employed in the case in 1999, as it is familiar with the human rights based approach which DITSHWANELO has insisted be utilised.

The legal system of Botswana allows for *pro deo* legal representation in cases where indigent persons are charged with an offence which carries the death penalty. This was the case with Maauwe and Motswetla *before* the involvement of DITSHWANELO. As part of the argument in the case in 1999, DITSHWANELO challenged the effectiveness of the *pro deo* system because it believed that it had failed the two men. Ultimately, under the current judicial processes, justice tends to evade the poor and illiterate because of their economic status. Without financial assistance, DITSHWANELO will be unable to ensure that the two men have a fair trial. The projected costs of the entire case are estimated to amount to US$172,000. As one of its strategic objectives, greatly influenced by the processes of the Maauwe and Motswetla case, DITSHWANELO aims to work towards the establishment of a State funded, functioning legal aid system for all poor people who require legal representation.

NAMIBIA

The San of Namibia

The year under review has been very encouraging for Namibian San communities in several respects, particularly in the respect of capacity-building, although certain San communities in the country have fallen prey to extremely discouraging national and regional influences.

Regarding capacity-building, a number of important education and training activities were initiated during the year, including:

- comprehensive research into the educational situation of San children in southern Africa;
- production of a video about the educational challenges facing San children;

- planning for and establishing San pre-schools;
- assistance to San learners to enrol in primary schools, secondary schools and the Namibian College of Open Learning;
- training in oral testimony collection;
- training for San traditional authorities;
- training in tourism;
- on-the-job training in administration and development for young San individuals.

Another important achievement has been the establishment of the Omaheke San Trust, which serves the approximately 6,000 San residing in the Omaheke Region in the east of Namibia. An essential aim of the trust is to help the San to organise themselves at the local and regional levels, the Omaheke San having emphasised such organisation as crucial for their progress.

The San communities in northern Namibia have been very severely affected firstly by political measures imposed by the Namibian government in the wake of a secessionist uprising in the Caprivi Region, and more recently by the government's decision to allow Angola's national army to operate from Namibian soil in its efforts to overcome the rebel Unita forces and end Angola's civil war. Attacks in which foreign and Namibian civilians have been wounded or killed, and the alleged harassment, intimidation and even torture of civilians by both Namibian and Angolan military forces, have created a climate of fear and led hundreds of San to flee to neighbouring Botswana where Namibian refugees are granted asylum.

Research into the Educational Situation of San Children in Southern Africa

Development worker and authority on education Willemien le Roux conducted intensive field research for one year into school and socio-economic realities to gauge their effects on San children's academic and social performance. She also analysed existing regional educational policies and structures as part of her study. She consulted communities of almost all San language groups, as well as school personnel, government officials and NGO representatives involved in education for marginalised minorities in Namibia, Botswana and South Africa.

Willemien le Roux has communicated her findings in a report titled *Torn Apart: San children as change agents in a process of acculturation*. The report provides invaluable insight into the perceptions of educational and related issues held by the San and all other stakeholders, and it elaborates on the chief factors influencing the San's relationship to formal education. These

factors include power and dependency, poverty, language of instruction, discrimination and abuse in schools, and traditional culture versus formal education. The researcher's comprehensive recommendations refer firstly to clearly identified crisis periods in a San child's life (i.e. pre-school and the early years of primary education, the pubescent years and late adolescence), secondly to the aforementioned factors influencing the San's relationship to formal education, thirdly to policies on education, and finally to regional strategies and co-operation on education.

The members of WIMSA's Board of Trustees, who commissioned the research in conjunction with the Kuru Development Trust based in Botswana, agreed after the findings were presented at their December 1999 meeting, that the report should be discussed at the local, national and regional levels. A regional conference on education is thus envisaged for 2000/2001, in which San representatives and educational planners will draw up a plan of action.

"Listen to us"

WIMSA, UNICEF Namibia and the Intersectoral Task Force on Educationally Marginalised Children ('Task Force') in the Ministry of Basic Education and Culture agreed in early 1999 to commission a documentary film about the challenges facing San children in formal education. Before the actual filming began, research into the issue was conducted among San pupils, their parents and community elders, school personnel and farmers residing in the far north, north-east and east of Namibia. A summary of the findings, mainly reflecting the San's views, was compiled in a report for WIMSA titled *Listen to Us: Challenges facing San children in education*. This report is regarded as a valuable supplement to the aforementioned study carried out in the southern African region.

It was decided that the film should focus on key issues for the San, such as loss of land, poverty and hunger. It was also decided that three films should be produced: the first titled *Education is important*, for screening in the various San communities; the second titled *Listen to us*, aimed at Namibian educators and policy-makers; and the third, a shorter version of the second, for screening on national television to raise public awareness of the educational constraints experienced by the San. The first film has been translated into the four languages predominantly spoken in the areas where the research was conducted: Ju/'hoan, Nama, Oshikwanyama and Afrikaans. The Task Force officially launched the second film in October 1999. In her keynote address, Deputy Minister of Basic Education and Culture Clara Bohitile referred to the San's educational problems in an empathetic tone, while simultaneously

drawing a realistic picture of their situation within the overall context of school education in Namibia. With this film the Ministry had once again demonstrated its commitment to "plac[ing] the plight of educationally marginalised children on the public agenda".

Support for San to 'Join' the Formal Education System

During 1999 the Epako San Pre-School, based in a township on the outskirts of the town of Gobabis, and the Donkerbos/Sonneblom Community school, situated on a communal farm run by approximately 70 San families, progressed well despite temporary setbacks. The student teacher at the Epako pre-school was awarded a Grade A Early Childhood Development Certificate after completing the two-year series of eight training courses under the Bokamoso Pre-School Programme run by the Kuru Development Trust ('Kuru') in Botswana. Another training workshop was organised for San from the Omaheke Region who are already involved with pre-schools or who are interested in running one in the near future. The majority of the participants (all except one of them were women) were illiterate, which prompted the trainers to focus on practical sessions and provide theoretical background information through culturally appropriate visual aids. Regular follow-up visits to support the trained pre-school students have been and will still be made by the training course co-ordinator.

The Nyae Nyae Village Schools Project (VSP) continued to offer mother-tongue education in Ju/'hoan for pupils in Grades 1-3. With reference to the VSP, researcher Willemien le Roux writes the following in her aforementioned 1999 report titled *Torn Apart: San children as change agents in a process of acculturation*:

The Namibian Institute for Educational Development (NIED) provides a distance learning upgrading programme for teachers ... . In order to qualify for this programme, the 12 VSP teachers were enrolled in a special programme to upgrade to Grade 10, with exemption given for certain subjects not relevant to their environment. The teachers passed the Grade 10 qualification conditionally, given only if they pass the Instructional Skills Certificate, after which they will be accepted as fully qualified government teachers.

The Namibian College of Open Learning (NAMCOL) provides an opportunity for school dropouts to upgrade their formal education qualifications by offering courses for learners in Grade 10 (the compulsory minimum level that a Namibian learner should attain) and Grade 12. During the year under review 43 San Grade 10 students (41 of them men) and three Grade 12 students (two men) enrolled in NAMCOL. Their examination results were disappoint-

369

ing. It became apparent that one reason for this was that study materials were delivered late, while another reason was that the learners lacked self-discipline and commitment in adhering to a daily study schedule, which in distance education is self-set and absolutely essential.

Training

The WIMSA/Kuru joint offer to train interested San from Botswana and Namibia in recording their people's oral history testimonies was enthusiastically accepted by a number of young San from the Hai//om, !Xõo, Kxoe and Naro communities. A total of 14 people (7 of them women) received training in motivating community members, interviewing techniques, transcribing interviews and visualising family trees and lifelines. The majority of these trainees have already conducted one or two in-depth interviews and produced handwritten transcriptions – on average 11 A4 pages in length – in either English or Afrikaans.

The series of four workshops on land rights and basic legal education run under the title *Land and Law* continued in 1999 as a joint project of WIMSA and the First Peoples Worldwide arm of the US-based First Nations Development Institute. The approximately 30 San traditional leaders who participated in the workshops on a (more or less) regular basis deemed the project a success because it had afforded them the opportunity to become better informed on land rights and legal procedures in Namibia and thereby enhance their leadership competencies. During the first workshop the participants established the San Action Committee on Land Issues, which should function as a liaising body for future workshops and a monitoring body in respect of Namibia's land reform process. Another positive outcome of the project was a submission collectively prepared by the traditional authorities and presented by their representatives to the Standing Committee on Natural Resources at a public hearing on the Communal Land Bill.

WIMSA and the Windhoek-based Centre for Applied Social Sciences (CASS) jointly organised a workshop for secretaries to the already officially recognised Ju/'hoan and !Kung Traditional Authorities based in Tsumkwe District East and West respectively. Follow-up training workshops were conducted in these two communities, focusing on office administration and bookkeeping as relevant for secretaries to San traditional authorities.

The WIMSA tourism trainer has conducted on-the-job training since April 1999 for the committee of the community-run Omatako Valley Rest Camp in the north-east of Namibia, for !Xõo community members who entered a joint venture with the Intu Afrika Lodge in the south of the country, and for the

!Xõo community in Aminuis Corridor 17 in the east, which has taken its first steps in implementing plans for a community-owned campsite. In co-operation with the Namibia Community-Based Tourism Association (NACOBTA), the WIMSA tourism trainer conducted a workshop on tour-guiding for interested San from Tsumkwe District East and West.

During 1999 WIMSA continued to train young San individuals (two women and two men) from South Africa, Namibia and Botswana in office administration and development issues. Training themes such as 'Efficient meetings' and 'Preparing a funding proposal' were carefully selected to ensure that the trainees are able to assist their communities efficiently with these fundamental activities.

In April 1999 the WIMSA board appointed a young Hai//om activist as assistant to the co-ordinator. The appointee had never had an opportunity to gain working experience in administration and development, but being motivated and committed, after being introduced to WIMSA's manifold tasks in networking, advocacy and lobbying, it did not take long before he began representing the organisation on national, regional and international fora.

Capacity-building for San Communities

With regard to San communities' efforts to set up their own organisational structures, a most significant achievement was the establishment of the Omaheke San Trust in 1999. This body is tasked to serve the approximately 6000 Ju/'hoan, !Xõo and Naro San scattered around commercial and communal farms and on the outskirts of towns and villages in the Omaheke Region in eastern Namibia. The processes of drawing up a constitution for the Trust and electing a board of trustees are complete, and the board is currently occupied with making the public and the relevant NGOs and government departments aware of the Trust's role in lobbying for San rights in the Omaheke.

The Kxoe of West Caprivi

The tendency of San in Namibia's troubled north to flee to neighbouring Botswana continues to escalate. The fleeing began in November 1998 when reports of a secessionist movement in the Caprivi started to emerge, and it escalated after members of Namibia's Special Field Force and police swept through Kxoe villages in west Caprivi in search of secessionist military training camps and weapons. Many more San fled in August 1999 when the Namibian government declared a state of emergency in part of the Caprivi following a secessionist attack in the area, and still more fled later in the year when fighting between the warring Angolan forces intensified along the bor-

der. The Kxoe's Omega III settlement is now deserted, many schools in the area are not operating as teachers and pupils fear for their safety, fields have not been cultivated and development projects have been put on hold.

Conclusions

Despite the discouraging developments in the north of Namibia, great strides have been made around San issues. Organisations like Integrated Rural Development and Nature Conservation (IRDNC), the Nyae Nyae Development Foundation (NNDFN), the Nyae Nyae Conservancy (NNC), the Ombili Foundation, the Omaheke San Trust (OST) and WIMSA have co-operated to assist the San to acquire education and training, to gain access to land and control over the natural resources on those lands, to advocate and lobby for their rights and in making the wider public aware of their problems and aspirations. In the words of WIMSA Chairperson Kxao Moses =Oma (board meeting, December 1999):

> *"WIMSA has established good cross-boundary communication regionally and internationally. The recognition which WIMSA has gained at all levels has given us more courage and strength to continue to further enhance our co-operation with our stakeholders."*

SOUTH AFRICA

1999 saw the consolidation of a number of official structures representing indigenous peoples in South Africa, as well as progress on the policy front. Some indigenous groups were able to start returning to their ancestral land and reviving their cultures and languages following successful land claims.

In March 1999, the South African government made an historic land restitution settlement with the ǂKhomani San of the Southern Kalahari. The then Deputy President, Thabo Mbeki, flew to the remote desert region to hand over 40,000 hectares of good land to the San who had been dispossessed by white farmers and by the creation of a National Park in the 1930s. In his speech, Mbeki stated: "What we are doing here in the Northern Cape is an example to many people around the world. We are fulfilling our pact with the United Nations during this decade of Indigenous People."

According to the Indigenous Peoples of Africa Co-ordinating Committee (IPACC), South Africa could play a major role in advancing the UN Draft Declaration on the Rights of Indigenous Peoples. Previous President Nelson

Mandela and the government of South Africa are seen internationally as having moral weight when it comes to human rights issues. African and Asian states have remained aloof or uninformed about the UN Decade. If South Africa took a strong stand in favour of the Declaration and mobilised its bilateral connections it could bring about an important shift in the North-South dynamics in Geneva. The first signs of real action came in March 2000 with South Africa openly supporting the UN Declaration and the Permanent Forum during a Commission for Human Rights debate in Geneva.

South Africa is going through a period of rapid change and policy reformulation. Thabo Mbeki has replaced Nelson Mandela as President of South Africa. With adequate lobbying he is likely to approve domestic and foreign policies that address the restoration of human and civil rights of indigenous peoples, including ILO Convention 169. Under the racially based apartheid system of the old regime, all aboriginal/indigenous peoples were put under heavy pressure to assimilate into other language and ethnic groupings. The liberation movement did not deal with this aspect of oppression during its struggle. However, now it is in a democratic dispensation, indigenous activists have been able to bring their plight to the government's attention. The Mbeki government says that it's policies, both domestic and foreign, will be guided by the principles of our constitution that guarantees both dignity and protection from discrimination.

Two formal structures were created to represent the voices of indigenous peoples: the *National Khoe-San Forum* and the *Khoe and San Language Body*. With regard to the former, the Department of Constitutional Development (DCD) worked with indigenous activists to create an elected interim representative structure to carry out negotiations and research with the government. The *National Khoe – San Forum* came into being in March 1999. Its Chairperson is Joseph Little of the Cape Cultural Heritage Development Council (CCHDC), and its Deputy Chairperson is Cecil LeFleur, who is an Executive Member of the Griqua National Conference and the Deputy Chair of the Indigenous Peoples of Africa Co-ordinating Committee (IPACC). The Khoe-San Forum is composed of the following five interest groups claiming indigenous status:

- the San communities
- the Nama communities
- the Griqua organisations and Korana groupings
- CCHDC and

- 373

- the Khoisan Representative Council (KRC).

Department officials work with elected representatives of each grouping to help conduct baseline research into identity, history, and traditional leadership of each claimant community. This research will feed into a second process whereby the National Khoe-San Forum and the government discuss models of representation for indigenous peoples.

The second official structure created is the *Khoe and San Language Body*. This is an official advisory structure, created by the Pan South African Language Board (PanSALB)– a statutory constitutional structure that is meant to monitor language rights and implementation of policy. The formation of the Khoe and San Language Body is a major breakthrough for indigenous peoples as it is the first time they have a direct voice in trying to stop the process of language death. The South African San Institute (SASI) has provided training and support to the new structure that represents traditional communities in remote rural areas that still speak their original languages and possess a great deal of traditional knowledge.

In addition to government initiatives, the Chairperson of the South African Human Rights Commission (HRC), Dr Barney Pityana, has taken an active role in promoting policy formulation around the rights of indigenous peoples in South Africa. The HRC held a series of workshops on the indigenous question and is due to release a report that will provide guidelines to the Mbeki government. Some elements of the report include improving the possibilities of cross-border movements for indigenous peoples to ensure cultural survival and religious freedom. Pityana took the issue further, but challenging the African Commission on Human and People's Rights to create a research team to investigate the violation of rights of indigenous peoples on the continent. There was initially much resistance but the Commission agreed to the investigation.

The International Labour Office's Project for the Rights of Indigenous and Tribal Peoples continued to play an important catalytic role with the Department of Constitutional Development. ILO co-sponsored two national conferences to bring indigenous activists and government officials together. Henriette Rasmussen attended National Khoe-San Forum meetings and kept track of developments. The ILO commissioned SASI and IPACC to produce a research document on the needs of the most vulnerable of indigenous peoples in South Africa. This was published as *"Indigenous peoples of South Africa: Current Trends"* in October 1999.

The office of the Canadian High Commissioner in South Africa has remained positive about providing technical assistance to the South African government. The two governments are currently discussing an exchange programme of civil servants to study indigenous rights issues.

The restructuring of the Department of Constitutional Development, which is to be dismantled and its functions divided between the Department of Justice and the Department of Provincial and Local Affairs, will retard progress on policy development. The Department of Foreign Affairs (DFA) has expressed a keen interest to engage with the UNWGIP on the issue of indigenous peoples rights, and IPACC has lobbied DFA to raise issues of human and civil rights abuses in its bilateral relations inside Africa. Unfortunately, DFA can only generate policy based on domestic policy, which is still far from being consolidated. It will take a direct move by Mbeki to break the logjam that has been created. Despite the problems of communication between government departments, the South African government gave its first formal report on progress at the UNWGIP session in July 1999.

The significance of South Africa in the UN Decade was further demonstrated with the formation of the Commonwealth Association of Indigenous Peoples (CAIP) in July 1999. Australian, Canadian, Asian and African activists came together in London and Geneva to create an official interest group within the Commonwealth. A six-member committee was elected with South Africa Griqua activist, Cecil LeFleur being elected as the President and Lucy Mulenkei, Kenyan Maasai gender activist, also serving on the committee. CAIP participated in the Commonwealth Heads of Government Meeting (CHOGM) in Durban, South Africa in November 1999. The willingness of the South African government and non-governmental organisations to welcome CAIP's presence increases the moral pressure on the Australian government to give space for indigenous issues at the next CHOGM meeting in Australia in 2001.

On the Ground

All three major San communities in South Africa started to deal with the realities of getting land settlements. The !Xû and Khwe began the process of establishing housing and income generating projects at the new settlement of Platfontein. They had to convince the provincial government that they had the right to live in two separate areas to protect and promote their cultural and linguistic identities. The ‡Khomani San of the Southern Kalahari began the process of resettlement at Witdraai. Detailed negotiations on transfer of land

375

from farmers proceeded smoothly. The ‡Khomani San must still negotiate the details of their rights inside Kalahari Gemsbok National Park.

The South African San Institute is working with the ‡Khomani San elders to map out traditional land occupancy and usage, including the history of dispossession and the diaspora. Through investigations, the number of identified elderly speakers of the ancient N/u language increased from ten to eighteen. Several N/u speaking elders returned to their ancestral land after the land settlement. The cultural landscape mapping inside the Kalahari Gemsbok National Park is being used to help define the types of rights to be negotiated. The mapping and history project has already demonstrated that the San lived in the Park prior to its proclamation, a claim originally denied by the Parks Board.

The Legal Resources Centre of Cape Town is assisting the Nama people of the Richtersveld to conduct an aboriginal title land claim for land taken by mining companies and farmers. The Nama people of Riemvasmaak on the Orange (!Garib) River remain in a tense situation with the Augrabies Falls National Park that is located on their ancestral land and includes grave sites that the community may not access. Griqua groups in the Western Cape are involved in the management and cultural interpretation of a new conservancy area near Vanrhynsdorp on the Knersvlakte. No progress has been made over the issue of correcting place names in the Northern Cape, though the UN Expert Group on Geographical Names was lobbied and the Department of Arts, Culture, Science and Technology was informed of the grievance.

Overall, the progress in South Africa has been remarkable in a short space of time. Domestically, San and Khoe activists must ensure that all the right policy initiatives become converted into reality on the ground. Poverty and the threat to cultural survival remain overwhelming for the more traditional communities. The challenge for indigenous activists globally is to mobilise South Africa to play a stronger role at the UN and in its bilateral relations.

PART II

INDIGENOUS RIGHTS

THE DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES REMAINS ON ITS TROUBLED PATH THROUGH THE UN

By Sarah Pritchard

Introduction

On the 3rd of March 1995, the Commission on Human Rights (CHR) decided to establish an open-ended inter-sessional working group with the purpose of elaborating a draft declaration, "considering the draft contained in the annexe to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled 'Draft United Nations declaration on the rights of indigenous peoples'." (CHR resolution 1995/32). The fifth session of the CHR Working Group (CHRWG) was held in Geneva from the 18th to the 29th of October 1999. It was the first session following the death in May 1999 of Andrew Gray on a networking trip in the Pacific for IWGIA. Throughout the fifth session, the loss to the process of Andrew's insight and sensitive analysis was manifest.

In *The Indigenous World 1998-99*, Andrew Gray provided a typically thoughtful account of the history and structure of the CHRWG (pp. 355 ff.). The purpose of this note is to describe the debate at the fifth session (CHRWG5), and to evaluate the movement, if any, in building consensus in relation to the provisions of the Draft Declaration.

Participation

The session was attended by 331 people, including representatives of 52 indigenous and non-governmental organisations, and 47 governments. For the first time since 1996, a Maori delegation participated in the CHRWG. The representative of the Wellington Maori Legal Service stated that the Maori delegation had withdrawn in 1996 because there was no equal participation of indigenous and governmental representatives. The representative has been sent as an observer to report on whether the right to full and equal participation was being recognised in the practice of the working group.

Following the return to Lima of former Peruvian Ambassador to the UN at Geneva, Ambassador Jose Urrutia, Mr Luis-Enrique Chávez of the Peruvian Mission was elected Chairperson-Rapporteur of the CHRWG. In his opening remarks, Chávez expressed a commitment to continuing to work in the same spirit of dialogue and transparency as his predecessor, and with full participation.

Organisation of Work

At its fifth session, the CHRWG held seven formal plenary meetings and nine informal plenary meetings. As with previous sessions, the report of CHRWG5 contains a record of the general debate and the debate which took place in formal plenary meetings (UN Doc. E/CN 4/2000/84). The discussions which took place in informal plenary meetings are reflected in the Chairperson's cursory summaries contained in the report. One problem with this approach is that there is no detailed record of delegations' often technical interventions in informal meetings.

At the first meeting of CHRWG5, the Chairperson gave a brief account of his consultations, including those with the Indigenous Peoples Preparatory Meeting, on the organisation of work. He proposed to allow first a general debate on general aspects of the process - self-determination, land rights and natural resources - then to focus on articles 15, 16, 17 and 18, and finally to make some progress on articles 1, 2, 12, 13, 14, 44 and 45. On behalf of governments, it was proposed to convene each day between 15.00 and 16.30, within the official work plan, to conduct informal consultations amongst governments. Observers were generally agreed that the proposal was initiated by a group of governments consisting of Canada, the United States, Australia and the United Kingdom, with Canada as principal co-ordinator.

The proposal to convene informal inter-governmental meetings as part of the official work plan was resolutely opposed by indigenous representatives. In an attempt to defuse a deadlock, the Chairperson proposed that indigenous representatives be allowed to observe at, but not participate in the informal inter-governmental consultations. This proposal was similarly rejected by the indigenous caucus. On behalf of the caucus, co-chairpersons Kenneth Deer and Marcial Arias emphasised that indigenous representatives had fought long and hard for full participation. They considered it unacceptable that informal governmental meetings should take up valuable time of the working group. The formalisation of informal meetings excluding indigenous participation was objectionable, and would detract from the transparent and participatory process in which indigenous representatives had agreed to take part. Whilst indigenous representatives were not opposed in principle to the idea of informal governmental meetings, they rejected the proposal that these meetings should be included in the official work plan. Particular concern was expressed that the outcomes of such meetings should not be part of the final report of the session, unless agreed to in a plenary meeting.

After two days of negotiations, the first formal meeting of CHRWG5 was opened. Canada stated that informal governmental meetings were essential to

ensure broad governmental participation in the elaboration of the Draft Declaration. The United States stated that informal governmental meetings were valuable in order to develop precise texts and discuss alternative wording. In a significant intervention which effectively broke the deadlock, New Zealand described the full engagement of indigenous peoples as vital and valuable, and in order to ensure an atmosphere of confidence and progress, agreed to strike informal governmental meetings from the work plan. Accordingly, the working group adopted a revised work programme from which informal governmental meetings were deleted.

General Debate

a. General Aspects

Only a few government delegations participated in the debate on general aspects of the Draft Declaration. These were Australia, New Zealand, China, Cuba and Switzerland. During the contributions of indigenous representatives to the debate a number of themes were consistently raised on the following general aspects:

- It is a basic principle of international law that human rights be applied uniformly and universally. Without the non-discriminatory application of international standards, the fundamental integrity of the UN's standard-setting on the rights of indigenous peoples is seriously compromised. Accordingly, all discussion of the Draft Declaration should take account of the principles of equality, non-discrimination and the prohibition of racial discrimination.

- Relevant to the CHRWG's work are important developments in the jurisprudence of the UN's human rights treaty bodies, the Human Rights Committee and the Committee on the Elimination of Racial Discrimination (CERD). Numerous indigenous representatives referred in particular to CERD's General Recommendation XXIII on the rights of indigenous peoples (Fifty-first session, 1997), which provides in part that:

  4. The Committee calls in particular upon States' parties to:

  a. recognise and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation;

b. ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity;

c. provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;

d. ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and ***that no decisions directly relating to their rights and interests are taken without their informed consent;***

e. ensure that indigenous communities can exercise their rights to practise and revitalise their cultural traditions and customs and to preserve and to practise their languages. (Emphasis added)

- The task of the working group is to contribute to the progressive evolution of international human rights standards as they apply to indigenous peoples.

- In their responses to the Draft Declaration, governments ought not be constrained by domestic constitutions, legislation or policy. Any such limitation conflicts with the purpose of international human rights setting.

- The Draft Declaration contains minimum standards for the survival of indigenous peoples, and for the protection and promotion of the fundamental rights and freedoms of indigenous peoples.

In his summary of the debate on general aspects, the Chairperson expressed his belief that positions were converging. He referred to agreement that the Declaration should be based upon the consensus of all participants, and on the principles of equality and non-discrimination. There were still several contentious issues among governments, such as the question of definition and the use of the term 'indigenous peoples'.

b. Self-determination

In their interventions on self-determination, indigenous representatives reaffirmed the right to self-determination, contained in article 3, as the funda-

mental principle underlying the Draft Declaration. The following themes emerged during their interventions:

- Without agreement on article 3, it would not be possible to reach consensus on other provisions of the Draft Declaration.

- The right of all peoples to self-determination is a fundamental norm of international law, recognised in the Charter of the United Nations, common article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Social, Economic and Cultural Rights (ICESCR) and the 1993 Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights. Accordingly, respect for the principles of universality, equality and non-discrimination requires recognition of the right of indigenous peoples to self-determination.

- The exercising by indigenous peoples of their right to self-determination provides a means for the peaceful settlement of disputes and strengthening national unity.

- Of particular relevance to the Draft Declaration's approach to self-determination are recent developments in the jurisprudence of the Human Rights Committee. That Committee's concluding observations in relation to the fourth periodic report of Canada pursuant to the ICCPR (UN Doc CCPR/C/79/Add 105), adopted on 7th of April 1999, provide in part that:

7. The Committee, while taking note of the concept of self-determination as applied by Canada to the aboriginal peoples, regrets that no explanation was given by the delegation concerning the elements that make up that concept, and urges the State party to report adequately on implementation of article 1 of the Covenant in its next periodic report.

8. The Committee notes that, as the State party acknowledged, the situation of the aboriginal peoples remains "the most pressing human rights issue facing Canadians". In this connection, the Committee is particularly concerned that the State party has not yet implemented the recommendations of the Royal Commission on Aboriginal Peoples (RCAP). With reference to the conclusion by the RCAP that without a greater share of lands and resources institutions of aboriginal

self-government will fail, the Committee emphasises that the right to self-determination requires, inter alia, that all peoples must be able to freely dispose of their natural wealth and resources and that they may not be deprived of their own means of subsistence (art. 1, para. 2). The Committee recommends that decisive and urgent action be taken towards the full implementation of the RCAP recommendations on land and resource allocation. The Committee also recommends that the practice of extinguishing inherent aboriginal rights be abandoned as incompatible with article 1 of the Covenant.

- Similarly, in connection with its (then) upcoming examination of Norway's fourth periodic report, the Human Rights Committee requested information on Norway's position in respect of the Sámi people's right to self-determination (UN Doc CCPR/C/67/L/NOR). Referring to these developments, the Saami Council said that the Committee's observations and questions confirm that article 1 of the ICCPR applies to indigenous peoples, and that "*an interpretation of indigenous peoples' right to self-determination which excludes our land and resource rights is incompatible with existing international law.*"

- Numerous indigenous representatives stated that the right of indigenous peoples to self-determination poses no threat to the territorial integrity and sovereignty of States. For example, the representative of the Metis National Council stated that international law protects the territorial integrity of States which adhere to international and human rights laws. The representative of the Lumad Mindanaw Peoples Federation stated that self-determination for his people meant self-governance of their territory within the sovereignty of the nation-state.

- Several indigenous representatives described the right to self-determination as an evolving concept, not limited to the context of decolonisation. In a wide-ranging and scholarly intervention, the Saámi Council described self-determination as "*an ongoing process of choice for the achievement of human security and fulfilment of human needs, with a broad scope of possible outcomes suited to specific situations.*"

A clear majority of governments supported recognition in the Draft Declaration of the right of indigenous peoples to self-determination, either as currently formulated or subject to a more explicit guarantee of territorial integ-

383

rity. *Switzerland* supported the inclusion of article 3 as an essential right of indigenous peoples, and analogous with the principle of subsidiarity implemented in Switzerland in which local autonomy coexists with a federal system. *Canada* restated its position that the traditional view of self-determination as limited to the colonial context and equated with a right of statehood has evolved. Canada accepts the right to self-determination for indigenous peoples which respects the political, constitutional and territorial integrity of democratic States. *Finland* fully supported acceptance of the term self-determination in the Draft Declaration, provided that article 31 dealing with self-government or autonomy in internal and local affairs is retained in the declaration.

New Zealand accepts the inclusion of the right to self-determination in the Draft Declaration subject to it being consistent with the domestic understanding of the relationship between Maori and the Crown, and with respect for the territorial integrity of democratic States and their constitutional frameworks, where those met current international human rights standards. *Norway* supported the application of the right of self-determination to all peoples under international law, including indigenous peoples. Norway understands the right to self-determination in article 3 as a right to be exercised within existing, independent and democratic States. It includes the right of indigenous peoples to participate at all levels of decision-making in legislative and administrative matters and in the maintenance and development of their political and economic systems. *Guatemala* described the right to self-determination as a key component of the Draft Declaration, and reaffirmed its support for the right to self-determination within the framework of national unity and territorial integrity.

In a statement more flexible than those made at previous sessions, *Brazil* noted that the concept of self-determination is evolving and adapting to new circumstances. For Brazil, the concept can be translated as the right of indigenous peoples to participate fully in decisions affecting them. *Ecuador* stated that the concept of self-determination contained in the Draft was not equivalent to the principle of international self-determination and did not imply the territorial dismemberment of States. Ecuador noted that statements by indigenous peoples had confirmed that understanding. Self-determination is the means of preserving indigenous cultures and communities. *The Russian Federation* had no difficulties in accepting the right to self-determination, although exercise of the right must be subject to the territorial integrity of States.

Pakistan fully supported article 3 and opposed any dilution or change of the concept. *Venezuela* stated that a reference to self-determination should be in line with the principle of the sovereignty and integrity of the State, and called upon participants to continue co-operating to find an acceptable text.

Argentina emphasised the need for textual amendments to ensure that nothing in the declaration can be used to dismember totally or in part the territorial integrity or political unity of a State. *Mexico* understood the right to self-determination within the framework enunciated in article 1(3) of ILO Convention No 169. In Mexico self-determination is interpreted as requiring respect for territorial integrity and national unity. *France* stated that the notion of self-determination continues to raise serious difficulties for a number of delegations, in particular because of its links to questions of decolonisation and territorial integrity. The concept had been applied in New Caledonia and was being applied in French Polynesia. At the present time, deliberations are taking place at the highest level of the French Republic.

The *United States* regarded the continuing dialogue concerning article 3 and its proposed recognition of a right to self-determination for indigenous peoples as one of the most challenging aspects of the negotiations over the Draft Declaration. With regard to self-determination the US promotes tribal self-government and autonomy over a broad range of issues. However, whilst the US uses the term 'self-determination' in its domestic context, the scope and definition of the right to self-determination in the international context needs clarification. The US is aware of the view of some governments and scholars that the right to self-determination includes both external and internal aspects, with the latter applying to groups within existing States. Significantly, *the US is "considering the evolving concepts of self-determination*". Later during the session, US representatives confirmed that *an inter-agency* review of the US position on self-determination had been initiated (emphasis added). In the most uncompromising of all government interventions on self-determination, *Australia* reaffirmed its delegation's inability to accept the inclusion of the term 'self-determination' in the Draft Declaration because for many people it implies the establishment of separate nations and laws.

In his summary of the debate on the right to self-determination, the Chairperson noted that positions of participants had converged, and that there was agreement that the right to self-determination is the cornerstone of the Draft Declaration. The Chairperson recognised that the principle of self-determina-

tion is evolving, and that although some governments had linked the right to the colonial context, it could and should be adapted to current circumstances. In particular, the right to self-determination is exercised at both internal and external levels. The Chairperson proposed that future debate on self-determination be based on three premises:

(a) recognition that the concerns expressed by some governments in relation to secession had been responded to by assurances from some indigenous delegations that they do not want to secede;

(b) the need for conformity between the formulation of the right to self-determination in the Draft Declaration and the principles which guide the UN, that is the principles contained in the Charter and;

(c) taking the universally accepted International Covenants, which contain the right to self-determination, as a basis for future discussion.

In an informal (!) meeting held on the 25th of October 1995, Malaysia reiterated its support for article 3, as drafted.

c. Land Rights and Natural Resources

The following themes were repeated during many interventions by indigenous representatives on articles 25-20 concerning land and natural resources:

- Articles 25 to 30 must be adopted in their current form. In response to a proposal by New Zealand to consolidate the five articles into a single provision, the representative of the Wellington Maori Legal Service stated that every article of the Draft Declaration is based upon known instances of violations of the human rights of indigenous peoples, and any suggestion that indispensable elements of the Declaration could be removed must be vigorously resisted.

- Numerous interventions referred to the absence of domestic recognition of indigenous rights to land, and cited specific experiences in land claims and resettlement processes. There was particular discussion of the experiences of the Maasai, Ogoni, Nama and Shor peoples, and the indigenous peoples of French Guyana.

386

- In response to government interventions referring to existing domestic regimes governing land rights and settlement processes, several indigenous representatives stated that it is inappropriate for domestic laws to limit and control the development of international standards.

- The CERD Committee's 1997 General Recommendation XXIII on the rights of indigenous peoples was also referred to as relevant to the Draft Declaration's approach to land and resource questions. Paragraph 5 of the General Recommendation states:

  "*The Committee especially calls upon States parties to recognise and protect the* ***rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources*** *and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.*" (Emphasis added)

- Several indigenous representatives drew attention to the Concluding Observations adopted on the 12th of December 1998 by the Committee on Economic, Social and Cultural Rights in relation to Canada's third periodic report pursuant to the ICESCR (UN Doc E/C 12/1/Add 31). In those observations, the Committee emphasised the connection between the economic marginalisation of indigenous peoples and their dispossession:

  "*18. The Committee views with concern the direct connection between Aboriginal economic marginalisation and the ongoing dispossession of Aboriginal people from their lands, as recognised by RCAP* [Royal Commission on Aboriginal Peoples], *and endorses the recommendations of RCAP that policies which violate Aboriginal treaty obligations and the extinguishment, conversion or giving up of Aboriginal rights and title should on no account be pursued by the State Party.*"

- The representative of the Indian Law Resource Center referred to the 1995 Concluding Observations of the Human Rights Committee in rela-

tion to the first periodic report of the United States pursuant to the ICCPR (UN Doc CCPR/C/79/Add 50), in which the Committee recommended "*that steps be taken to ensure that previously recognised aboriginal Native American rights cannot be extinguished.*" (Paragraph 302)

- Several indigenous representatives from Australia referred to the March 1999 finding by the CERD Committee that 1998 amendments to Australia's *Native Title Act 1993* (Cth) were in breach of Australia's international obligations as an illustration of the critical importance of international standards in protecting the rights of indigenous peoples.

Australia's representative noted that the spirit of many of the articles of the Draft Declaration relating to land were already being implemented in Australia. In contributing to the development of the parts of the Draft Declaration that deal with land and natural resources, Australia will be guided by domestic law and practice. *New Zealand* said that the language of the Draft Declaration needs to be clarified to ensure consistency with the Treaty of Waitangi settlement processes and policies, and with the domestic law of New Zealand. New Zealand could support a comprehensive article which consolidated all aspects of indigenous rights in relation to land. *Denmark* stressed the importance of addressing the question of land rights and natural resources in a manner satisfactory to indigenous peoples. A flexible approach is necessary because indigenous peoples often have perceptions which differ from those of the wider community.

Canada strongly supported the principle that indigenous peoples have the right to own, control, develop and use their lands and resources. However, to be universally applicable the Draft Declaration would have to take into account the many different land and resource arrangements between States and indigenous peoples. The current text needs to be amended and clarified, particularly in relation to the terms 'lands' and territories'. The Draft Declaration's restitution criteria are also unnecessarily limiting. Article 27 should be expanded to address processes for dealing with land claims. *Malaysia* considered the articles to have been drafted in too broad a language in view of the complexity of the issues, and proposed more precise language in order to strengthen the text. The *United States* supported the goals of articles 25 to 30, referring to an extensive history of addressing land claims and the recognition of a legally enforceable fiduciary duty. The US was concerned about the broad language of article 26, which seems to give indigenous peoples the

right to ownership of land they had "traditionally occupied or otherwise used". *Guatemala* stated that the term 'territories' should be given the same meaning as it was by the drafters of the original text. The representative referred in particular to the report of the Chairperson-Rapporteur of the Working Group on Indigenous Populations, Erica-Irene Daes (UN Doc E/CN 4/Sub 2/1993/26/Add 1). *Venezuela* expressed concern at the use of the term 'territories' because of its connotations for the definition of States. Venezuela prefers the term 'land', which is compatible with domestic law.

In a somewhat optimistic summary, the Chairperson noted that growing goodwill and flexibility would make it possible to reach an understanding between participants in the working group. At the conclusion of the debate, it was clear that there remained considerable divergence in the participants' positions. With many - especially the Nordic - governments remaining silent on these provisions, it is too early to speak of emerging areas of consensus. However the debate was conducted with greater specificity and candour than it had been previously, with governments beginning to discuss particular perspectives and experiences in relation to the recognition of land and resource rights.

Articles 15 to 18 - Education, Information and Labour Rights: The Approaches of Governments

In 1998 at CHRWG4, the then Chairperson Urrutia received an informal paper setting out concrete proposals from a number of government delegations, especially those from Australia, Canada and the United States, in relation to articles 15 to18. At the time, the indigenous caucus expressed grave concern that indigenous representatives had not participated in the elaboration of the non-consensual paper, and rejected any suggestion that the working group was engaged in a drafting or negotiating exercise. In response, Chairman Urrutia confirmed that the working group was not engaged in a drafting or negotiating exercise.

As noted above, at CHRWG5 the indigenous caucus successfully resisted efforts to 'formalise' the informal inter-governmental consultations in the official work plan. However, this did not prevent governments from continuing informal consultations on articles 15 to18. The inter-governmental processes produced four papers which synthesised governments' attempts to reach consensus on alternate texts. The working group held nine informal plenary meetings to consider the governments' papers. The Chairperson's summary concluded that:

389

> *The frank and constructive discussion of the principles and substance of these four articles allowed Governments to produce alternative texts for each one of these articles which include some bracketed wording reflecting outstanding issues requiring further consideration. Some governmental representatives expressed the view that they could agree to the cluster as originally drafted, either in total or in part. Others expressed a preference for the current text as approved by the Sub-Commission. However, the emerging view of the participating governmental delegations was that the alternative texts could be considered as an acceptable basis for further work and could be presented to the working group in order to advance the discussion in plenary.* (Paragraph 114)

According to the Chairperson's summary it was also the case that:

> *Governmental representatives also said that they were looking forward to pursuing discussions on other articles at the next session of the working group and would be pleased to consider including indigenous observers in informal meetings among Governments when discussions focused on specific articles of the declaration, if those meetings could be part of the work schedule of the next session.* (Paragraph 117)

The Chairperson concluded that a fruitful debate had taken place and that there was growing consensus in regard to the underlying principles of the articles (paragraph 118). From the perspective of indigenous participants, the debate on articles 15 to18 was anything but fruitful. Whilst governments might have narrowed their own differences, disagreement between governments and indigenous participants had, if anything, increased. Whilst at previous sessions, numerous governments had expressed an ability to live with some or all of articles 15 to18 as drafted, as a result of their participation in the informal government consultations, previously supportive governments found themselves shifting to accommodate the most inflexible of government positions. During this process, consensus was built around the most extreme and obstructionist positions. Indigenous representatives watched with dismay as discussion of the articles in plenary sessions focused not upon the original text of the Declaration, as approved by the Sub-Commission, but upon the proposals produced by governments in their informal consultations.

390

This process represented a significant departure from the open dialogue and consensual working methods which had characterised previous sessions of the working group. On the basis of CHR resolution 1995/32, the agreed procedure had been to consider the original text as a basis for all discussion of the declaration's underlying principles as well as particular articles. Contrary to the concept of 'full and equal participation', CHRWG5 saw the institutionalisation of the practice, begun by previous Chairperson Urrutia and apparently encouraged by current Chairperson Chávez, of governments revising the text of the Declaration with a view to narrowing differences between themselves. The Chairperson's summary, quoted above, reveals an unmistakable intention on the part of governments to entrench informal governmental redrafting in the future processes of the working group. The summary delivers an ultimatum to indigenous representatives - if they wish to attend the consultations, *as observers*, then the consultations must form part of the official work schedule.

Within the government camp, it was apparent that some delegations were troubled by aspects of the closed governmental meetings. In plenary meetings, a number of governments retreated from the positions reflected in the governments' proposals. After listening to indigenous comments on the proposals, these governments stated either that they could live with the original text of particular articles, or that they regarded the original text as superior. Such statements were made by Argentina, Brazil, Denmark, Ecuador, Finland, Guatemala, Mexico, New Zealand, Norway, the Russian Federation and Switzerland. The most vigorous defenders of the proposals were those governments who had led the exercise, Canada, Australia, the UK and the US.

Articles 15 to 18 - Education, Information and Labour Rights: The Responses of Indigenous Representatives

The government papers on articles 15-18 were generally made available to indigenous representatives only a short time before their discussion in plenary. This meant that there was insufficient time to analyse adequately the redrafts, to caucus and to respond to proposed textual changes. A particular difficulty arose as the anglophone instigators of the inter-governmental consultations had failed to make provision for translation of the papers into any other language. This placed many indigenous representatives at a considerable disadvantage. Notwithstanding difficulties in analysing and responding to the government texts, indigenous representatives were generally scathing in their assessment of the proposed changes. Three points were made repeatedly in the indigenous interventions:

1. The square bracketing of indigenous peoples.
2. The square bracketing of shall/should.
3. The lack of justification for many changes, with changes in some instances actually obfuscating the clarity of the existing text.

Square Bracketing of Indigenous Peoples

In response to the square bracketing of the term 'indigenous peoples', the indigenous caucus proposed an "Annexe on the term indigenous peoples" for inclusion in the final report. This consensus document set out the consistent position of indigenous peoples' representatives in relation to the term 'indigenous peoples':

> *There can be no doubt that we are peoples with distinct historical, political and cultural identities. We are united by our histories as distinct societies, by our languages, laws, traditions and unique spiritual and economic relationships with our lands and territories. Indigenous peoples are unquestionably peoples in every legal, political, social, cultural and ethnological meaning of the term. It is discriminatory, illogical and unscientific to identify us in the United Nations Draft Declaration on the Rights of Indigenous Peoples as anything less than peoples...*
>
> *We continue to insist that the United Nations apply its own standards universally and equally, that it accord us the same rights as other peoples in the world, that it act without prejudice and without discrimination. We cannot agree, now or at any future time in consideration of the Draft Declaration on the Rights of Indigenous Peoples, to any qualification, explanation, definition, bracketing, parenthesising or footnoting of the term indigenous peoples.*

The proposed annexe noted that the term 'indigenous peoples' is well-established in international legal practice, including in:

- the concluding observations of the Committee on the Elimination of Racial Discrimination, and General Recommendation XXIII(51) concerning Indigenous Peoples adopted on the 18th of August 1998;
- the views and concluding observations of the Human Rights Committee in relation to the implementation of the International Covenant on Civil and Political Rights;
- the observations of the Inter-American Commission on Human Rights;

- the resolutions of the European Parliament and the Council of Ministers of the European Union;
- the World Bank's Operational Directive 4.20 and;
- the Asian Development Bank's 1997 policy on indigenous peoples.

The proposed annexe identified numerous example of the use the terms 'indigenous peoples' and 'aboriginal peoples' in the practice of States, including in constitutional guarantees, legislative enactments, judicial decisions, negotiated treaties and agreements, and national and local policy. Examples given include:

- Australia's 1993 Native Title Act;
- the Constitution of Bolivia (Article 171), the Popular Participation Law of Bolivia, INRA Law of Bolivia, Educational Reform, Environment and Hydrocarbon of Bolivia;
- the 1999 Commission on Indigenous Peoples of the National Congress of Peru;
- the 1982 Canadian Constitution Act (section 35);
- the Constitution of Colombia (article 246);
- the 1994 Agreement on Identity and Rights of Indigenous Peoples of Guatemala;
- the Constitution of Malaysia (article 151);
- Denmark's 1994 strategy of support for indigenous peoples;
- the Political Constitution of the Republic of Ecuador (article 83);
- the Constitution of Mexico (article 4);
- the Constitution of Nicaragua (article 5);
- the Constitution of Paraguay (article 62);
- Germany's 1996 policy for indigenous peoples in Latin America;
- the Netherlands' 1993 policy on indigenous peoples;
- Panama's environmental law;
- the Philippines' 1997 Indigenous Peoples' Rights Act;
- the United Kingdom's 1995 Guidance on Ethnicity, Ethnic Minorities and Indigenous Peoples;
- Spain's 1997 strategy for co-operation with indigenous peoples;
- Switzerland's 1998 action for indigenous peoples and;
- the United States Code: 7 U.S.C. Section 1738k(d)(1); Title 22 (9 separate Sections), 42 U.S.C. Section 11701(17) and the United States S. Con. Res. 44, 103d Cong., 1st Sess. (1993).

Finally, the Annexe referred to the numerous States which have accepted use of the term indigenous peoples in the practice of the CHRWG. These include Angola, Argentina, Australia, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Ecuador, El Salvador, Estonia, Fiji, Finland, Guatemala, Malaysia, Mexico, New Zealand, Norway, Pakistan, Peru, Philippines, Russian, Spain, Sweden, Switzerland and Venezuela. Apparently succumbing to the pressure from governments, the Chairperson rejected the 'Annexe on the term indigenous peoples' for inclusion in the report.

Square Bracketing of Shall/Should

In relation to the bracketing of shall/should, indigenous representatives noted, as they did at CHRWG4, that 'shall' is used in numerous UN declarations, including the Universal Declaration of Human Rights. In the ensuing debate, many governments supported the use of 'shall', including Canada, Finland, New Zealand and Switzerland (who did so "strongly"). Only the UK and Japan insisted on 'should' as more appropriate in an aspirational document such as the Draft Declaration. Australia and the US were conspicuously silent.

Other Proposed Changes

It is not proposed to analyse in detail the changes proposed to the text of articles 15 to18. These are reproduced in full below. It can be seen that the 1999 inter-governmental consultations again failed to produce any consensus on the text. Generally speaking, as governments were at pains to emphasise, the 1999 proposals contain less square bracketing and fewer amendments than the informal paper submitted in 1998. For example, it is no longer proposed to insert in article 16 a reference to "the appropriate level of government" in order to reflect the federal systems of some countries. At the same time, however, it is clear that governments agreed to retain much of the language that indigenous representatives in 1998 thought qualified and weakened the original text, in their 1998 proposal.

For example, in relation to *article 15 (education)*, the 1999 proposal again insists on the insertion in paragraph 1 of the words "on the same basis as other members of the society". The 1999 proposal again introduces in paragraph 1 references to "applicable education laws and standards" and to "consultation with competent authorities in the State". In relation to paragraph 2 the 1999 proposal retains the concept that children living outside their communities should have "access" to education in their own culture and language, rather than the "right to be provided access" to such education as in the original text.

In relation to *article 16 (public education and information)*, the 1999 proposal again deletes the reference in paragraph 1 to a "right" of indigenous peoples, substituting instead words stating that "the dignity and diversity of indigenous peoples' cultures, traditions, histories and aspirations should be appropriately reflected in education and public information". The reference to "all forms of" education and public information is similarly deleted.

In relation to *article 17 (media)*, the 1999 proposal again insists on inserting in paragraph 1 the words "on the same basis as the other members of the society". It is again proposed to broaden paragraph 2 beyond state owned media "without prejudice to ensuring full freedom of expression", thus reflecting a concern for the independence and freedom of the press. In relation to *article 18 (labour rights)*, the 1999 proposal again inserts "applicable" before "international labour law" in paragraph 1.

At CHRWG5 indigenous representatives were again faced with the dilemma that whilst most proposals could be easily refuted as inconsistent with the fundamental principles underlying the Draft Declaration or weakening the existing text, several potentially improved upon or strengthened the existing text. For example, the 1999 proposal in relation to article 15 retains the reference to "indigenous individuals" proposed in 1998, with the justification that the term 'individuals' broadens the right contained in article 15 to include post-secondary education. Similarly, the 1999 proposal in relation to article 18 introduces a new reference to the protection of children from the worst forms of child labour. This draws upon ILO Convention No 182 on the Worst Forms of Child Labour, unanimously adopted by the International Labour Conference in June 1999.

Throughout CHRWG5 there was much discussion within the indigenous caucus as to how to respond most effectively to the apparent redrafting exercise driven by a small group of governments. At CHRWG4 in 1998, Mick Dodson, as representative of the Aboriginal and Torres Strait Islander Commission, proposed basic criteria which would need to be met by proponents of any change to the existing text. The first of these was the very strong presumption that the current text should retain its integrity. The second was conformity with the principle of equality, the principle of non-discrimination, and the absolute prohibition of racial discrimination. During CHRWG5, a number of indigenous organisations supported a paper put forward by the Wellington Maori Legal Service which sought to build upon the criteria previously proposed by Mick Dodson.

First, the proposal noted the consistent emphasis placed by indigenous representatives on the use of the term 'indigenous peoples' in the work of the UN. Second, the proposal set out criteria to be met by proponents of any changes to the existing text:

> *The Draft Declaration must be approached on the basis of a very high presumption of the integrity of the existing text. In order to rebut this presumption, any proposal must satisfy the following criteria:*
>
> *1. It must be reasonable.*
> *2. It must be necessary.*
> *3. It must improve and strengthen the existing text.*
>
> *In addition, any proposal must be consistent with the fundamental principles of:*
>
> *1. Equality.*
> *2. Non-discrimination.*
> *3. The prohibition of racial discrimination.*

The proposal was signed by representatives of the Wellington Maori Legal Service, the Asia Indigenous Peoples' Pact, the Saami Council, the Mohawk Nation at Kahnawake, the Asian Indigenous and Tribal Peoples' Network, the Indian Law Resource Center, the Na Koa Ikaika o Ka Lahui Hawaii, the National Aboriginal and Islander Legal Services Secretariat, the National Secretariat of Torres Strait Islander Organisations, the Aboriginal and Torres Strait Islander Commission, the Indigenous Woman Aboriginal Group and the Foundation for Aboriginal and Islander Research Action. Some indigenous delegations were wary of the approach considering it to be tantamount to the tacit endorsement of textual change and to shifting power to those governments most actively seeking to dismember the existing declaration.

Annexes

The documents accepted by the Chairperson for annexure to the final report generated considerable controversy. Over the heads of the indigenous participants' vigorous opposition, the Chairperson accepted as Annexe I the texts proposed by governments and an explanatory note on the use of brackets around the term 'indigenous peoples'. This way governments were able to enhance the legitimacy of their own amended texts as the basis for future

discussion in the CHRWG. The inclusion of Annexe I also effectively formalises and legitimises the informal inter-governmental consultations as the appropriate forum for redrafting the Declaration.

Annexe II is entitled 'Proposals by Indigenous Representatives for Articles 15 to18'. This notes the support of indigenous representatives and some government delegations for the current wording of articles 15, 16, 17 and 18, and reproduces the existing text. As noted above, the "Annexe on the term indigenous peoples" proposed by the indigenous caucus as a consensus document was not accepted by the Chairperson for inclusion in the final report.

Outcomes

At the commencement of CHRWG5, the Chairperson expressed the hope that some or all of articles 15 to18 would be adopted. In the event, articles 15 to 18 were not adopted, and there was, if anything, an increasing divergence rather than narrowing of approaches. There was no discussion of articles 1, 2, 12, 13, 14, 44 and 45.

Questions of process, structure and participation have become increasingly complex, with indigenous representatives struggling to defend the consensual working methods previously agreed upon in relation to all aspects of the CHRWG's work. By stealth, a small group of governments has prepared the way for opening the text produced by the WGIP up for redrafting by governments. CHRWG5 saw the consensus which was nearly reached at CHRWG4 in relation to articles 15 to18 fast receding. The session also saw some tension emerge within the government camp in relation to the redrafting exercise. It is clear that increased use of pressure and elements of brinkmanship are entering into at least some governments' approaches to the process.

In general, CHRWG5 saw consistent advocacy of the Draft Declaration by Costa Rica, Denmark, Guatemala, New Zealand and Norway; an absence of African governments; very little activity by the Asian group; silence on the part of Chile and Sweden; obstructionist interventions by the United Kingdom; intransigence by Japan on the question of collective rights; continuing positive shifts by Argentina, Brazil and France; a split in the CANZUS (Canada, Australia, New Zealand and US) group, with New Zealand emerging as a constructive broker, and Australia as a hard-liner.

Within the indigenous caucus, unanimity prevailed. However, there were some (muted) calls for new approaches to dialogue with governments. From the first meetings of the CHRWG, there have been differences of opinion as to

397

whether the Declaration, as drafted, ought be defended to the end, or whether changes which improve or strengthen the text might be countenanced. Whichever view prevails, there is recognition of the need for hard thinking about fresh strategies for engagement. At CHRWG5, the inequalities in resources available to indigenous representatives and governments in their preparation for and participation in the working group were more evident than at any previous session.

More positively, CHRWG5 saw increasing recognition of the synergy between the work of the UN's independent human rights treaty bodies and the Draft Declaration process, with the jurisprudence of the treaty bodies providing a valuable line of defence against governments' attempts to depart from international human rights standards relevant to indigenous peoples. Also encouragingly, CHRWG5 saw an increasing level of understanding by governments about the importance of maintaining a dialogue around the fundamental issues and concepts underlying the Declaration. Thus, despite ambiguities surrounding the governments' proposals in relation to articles 15 to 18, the session again saw real movement in the positions of several governments in the debate on self-determination. Finally, the announcement by the US of an inter-agency review of its approach to self-determination raised a glimmer of hope that a major obstacle to consensus building might possibly be removed.

Government Positions 1999

The position of governments at CHRWG5 can be tabulated as follows:

1. Those who *urged flexibility* and, whilst considering proposed amendments, could live with some or all of the articles under discussion as drafted: Denmark, Finland, Norway, New Zealand, Norway, Switzerland, Costa Rica, Ecuador, Guatemala, Venezuela, Pakistan and the Russian Federation.

2. Those who supported the principles contained in the articles but *insisted on amendments* to the current text. More flexible: Brazil, Colombia, Malaysia and Mexico. Less flexible: Argentina, Canada and France.

3. Those who *challenged fundamental principles* underlying the Draft Declaration, in particular the concept of self-determination, language

of indigenous peoples and/or the recognition of collective rights: Australia, Japan, the United Kingdom and the United States.

Government Activity 1999
The activity of governments at CHRWG5 can be evaluated as follows:

1. Most active: Argentina, Australia, Brazil, Canada, Costa Rica, Denmark, Finland, France, Guatemala, Mexico, New Zealand, Norway, Russian Federation, Switzerland, Venezuela, the UK and the United States.

2. Largely silent: Bolivia, Colombia, Cuba, Ecuador, Japan, Malaysia and Pakistan.

3. Silent: Bangladesh, Belgium, Chile, China, Estonia, Germany, Holy See, Honduras, India, Indonesia, Iraq, Italy, Morocco, Netherlands, Nicaragua, Peru, Philippines, Poland, Saudi Arabia, South Korea, Spain, Sudan, Sweden and Uruguay.

4. Previously attended CHRWG but did not attend CHRWG5: Algeria, Angola Austria, El Salvador, Egypt, Ethiopia, Fiji, Iran, Kenya, Nepal, Nigeria, Panama, Paraguay, Portugal, South Africa, Thailand, Ukraine and Vietnam.

PERMANENT FORUM ON INDIGENOUS ISSUES: CHASING THE MIRAGE

By Suhas Chakma

On the 27th of April 2000, the 56th session of the Commission on Human Rights (CHR) resolved to establish the Permanent Forum on Indigenous Issues as a subsidiary body of the Economic and Social Council (ECOSOC). Resolution 2000/87 on the establishment of the Permanent Forum was adopted by a roll-call vote of 43 in favour to none against, with nine abstentions. That the resolution on the Permanent Forum on Indigenous Issues was adopted just prior to the end the 56th Session of the CHR after a lengthy debate on the draft resolution (E/CN.4/200/L.68) indicates the unwillingness of a few mem-

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ber States to establish the Permanent Forum. None of the Asian States sponsored the resolution. Cuba abstained from voting on the entire resolution.

The Permanent Forum is the most significant and concrete step taken so far by the United Nations to address indigenous peoples' issues. From the denial of entry to the League of Nations to the establishment of the Permanent Forum within the United Nations system, it has been an arduous journey for some of the world's most disadvantaged and oppressed peoples.

The idea of the Permanent Forum for Indigenous Peoples derived from the realisation amongst the indigenous representatives, members of the Sub-Commission's Working Group on Indigenous Populations and many member States of the UN that there is no permanent mechanism within the United Nations system to address the problems of indigenous peoples. The issue of the Permanent Forum was raised at the Vienna World Conference on Human Rights in June 1993. The 1993 Vienna Declaration and Programme of Action recommended the establishment of the Permanent Forum. The General Assembly (GA) in its resolution 50/157 identified the establishment of the Permanent Forum as one of the important objectives of the International Decade of the World's Indigenous Peoples.

Pursuant to the Commission on Human Rights resolution 1995/30 of the 3rd of March 1995, a workshop on the possible establishment of the Permanent Forum was held in Copenhagen in 1995. The Copenhagen workshop requested that the UN Secretary General conduct a study on a "Review of existing mechanisms, procedures, and programmes within the United Nations concerning indigenous people". The Secretary General in his report (A/51/493) noted in particular, the striking absence of a mechanism to ensure coordination and regular exchange of information among interested parties - Governments, the United Nations and indigenous people - on an ongoing basis. The Secretary General stated:

> *"...there exists no mechanism to ensure regular exchange of information between the concerned and interested parties - Governments, the United Nations system and indigenous people - on an ongoing basis. The information provided by the United Nations agencies does not indicate that adequate procedures are already in place to accommodate the effective involvement of indigenous people in the work of the United Nations".*

In 1997, pursuant to CHR resolution 1997/30 of the 11th of April 1997, the Second Workshop on the Permanent Forum was held in Santiago, Chile. The

report of the Secretary General was considered. The workshop suggested that "the Commission on Human Rights at its 54th session should consider how to further the process of the establishment of a permanent forum for indigenous people within the United Nations system, inter alia through the drafting of concrete proposals to this effect and bearing in mind the possibility of submitting the matter to ECOSOC for action."

First Open Ended Inter-Sessional Ad-hoc Working Group

The Commission on Human Rights in its resolution 1998/20 of the 9th of April 1998 decided to establish an Open Ended Inter-Sessional Ad Hoc Working Group to elaborate and consider further proposals for the possible establishment of a Permanent Forum for Indigenous People (PFIP) within the United Nations system.

Pursuant to the CHR resolution, the First Open Ended Inter-Sessional Ad Hoc Working Group chaired by Mr Richard van Rijssens was held from the 14th to the 19th of February 1999 in Geneva. Among other matters, it discussed the mandate, membership and participation and the UN body to which the PFIP should report and follow-up. The Declarations of various regional meetings of indigenous peoples were distributed.

During the First Ad Hoc Working Group Session, after an overall agreement on the basic parameters of the Permanent Forum was reached, the Chairman-Rapporteur proposed that the Conclusions and Recommendations should be adopted as the Working Group's Conclusions and Recommendations. This was however blocked by Indian representative, Mr R Venu, who sought numerous clarifications on procedural issues as a way of killing time. Despite repeated appeals of the Chairman-Rapporteur for co-operation, the Indian delegation refused to budge and raised similar procedural questions rather than engaging in debate on substantive issues. Finally, the Conclusions and Recommendations of the Working Group were adopted as "Annex I: Issues and suggestions for future work identified by the Chairman-Rapporteur on the basis of the discussion in the Working Group" and "Annex II: Chairman-Rapporteur's summary of the debate on: The mandate and terms of reference, membership and participation and the United Nations body to which the proposed forum would report." India was supported by the United States' delegation. A large number of government delegates did not state their positions on the issue.

After considering the report (E/CN.4/1999/83) of Chairman-Rapporteur Mr van Rijssens, the CHR decided, in its resolution 1999/52 of the 27th of April 1999, to re-establish the open-ended inter-sessional Ad Hoc Working

Group that had first been established in accordance with resolution 1998/20. The working group was to meet for eight working days prior to the 56th session of the Commission, and the report requested the working group to submit, with a view to completing its task, one or more concrete proposals on the establishment of a permanent forum, for consideration by the Commission at that session. In preparation for the next session of the Ad Hoc Working Group, the resolution also invited the Chairperson-Rapporteur of the Working Group, Mr Richard van Rijssens, to submit a working paper to the Member States and other participants in the Ad Hoc Working Group containing suggestions and possible alternatives on all aspects of this matter. The contents of this paper should be based on the result of the debate at the first session of the working group and subsequent informal consultations. The ECOSOC endorsed the CHR resolution in its decision 1999/242 of the 27th of July 1999.

Second Ad Hoc Working Group on the Permanent Forum

The second Session of the Ad Hoc Working Group on the establishment of the Permanent Forum was held from the 14th to the 23rd of February 2000. Mr Peter Wille of Norway was elected as the Chairman-Rapporteur of the second session of the Ad Hoc Working Group. The Chairperman-Rapporteur of the First Ad Hoc Working Group, Mr Richard van Rijssens submitted the "Report on consultations held by the Chairman/Rapporteur" (E/CN.4/AC.47/2000/2). It contained concrete recommendations on the establishment of the Permanent Forum.

Aware of the track records of those Asian governments in league with the United States on indigenous peoples' issues, the Asian Indigenous and Tribal Peoples Network (AITPN) undertook a study whose aim was to develop "possible indigenous positions" on all the issues pertaining to the Permanent Forum. They did this in co-operation with the Saami Council and the International Work Group on Indigenous Affairs (IWGIA). The study was intended to assist in the formulation of consensus positions by indigenous peoples so that they might effectively contribute to the second session of the Ad Hoc Working Group. A detailed study on '*The possible positions of the indigenous peoples*' was prepared for a workshop on the matter in Copenhagen on the 7th and 8th of January 2000 for a group of indigenous people. The Copenhagen workshop made concrete recommendations about the establishment of the Permanent Forum for the indigenous caucus to consider. On the 12th and 13th of February 2000, after two days of consultation based on the Copenhagen recommendations, the indigenous caucus unanimously adopted the "Recommendations of the indigenous caucus on the establishment of the perma-

nent forum for indigenous peoples in the United Nations system" contained in document E/CN.4/AC.47/2000/CRP.1.

An indigenous representative submitted the recommendations of the indigenous caucus and appealed to the government representatives to consider it as a basis for its work. The recommendations related to: the establishment of the Permanent Forum for indigenous people; the mandate and membership of the core group; nominations for the core group; participation of observers in the open assembly; placement of the Permanent Forum in the United Nations system; voting; the name of the forum; the number of members; rules of procedure; terms of reference, financing and location of the Permanent Forum and its secretariat. The recommendations of the Indigenous Caucus were accepted by government representatives as the basis for discussion of the Working Group.

Following the proposal of the Chairperson-Rapporteur, the Working Group decided to hold formal and informal meetings and appoint a governmental representative and an indigenous representative as facilitators for the following sub-items regarding the proposals for the establishment of a permanent forum for indigenous people: (a) the mandate and terms of reference for the activities to be undertaken by the forum; (b) membership; (c) financial and secretariat implications; (d) the United Nations body to which the proposed forum would report; (e) location of the forum; (f) name of the forum and; (g) other matters.

The facilitators held discussions with governmental and indigenous representatives in an attempt to reflect the common denominators on each sub-item. Yet there remained yawning gaps between the "elements of a permanent forum" which, in the words of the Chairman-Rapporteur, "was a reflection of various proposals that had been presented" and the reports of the facilitators on the issue of a mandate. A cursory glance reveals that the Chairman-Rapporteur either did not take into account the facilitators' observations, or that the facilitators simply failed to understand the participants' views correctly. But the proceedings of the Working Group sessions show that in order to reach a self-imposed consensus, the Chairman-Rapporteur evidently did not try to reflect the facilitators' observations in the mandate of the Permanent Forum. The facilitators' consultations over the issue of the mandate, only served to give indigenous representatives a false sense of participation, as the Chair negotiated directly with the governmental delegates. The following analysis of the debate on the mandate of the Permanent Forum at the second Ad Hoc Working Group is a clear testimony to this fact.

Mandate

In the elements of a permanent forum, the Chairman-Rapporteur provided the following for the mandate:

> *"The Forum shall be an advisory body with the members serving in their personal, independent capacity with the mandate to discuss indigenous issues within the mandate of the Economic and Social Council and the themes of the International Decade.*
>
> *It was also proposed that specific reference should be made in the mandate to Articles 62 and 63 of the Charter of the United Nations.*
>
> *In fulfilling its mandate, the Forum will:*
>
> *(a) Provide expert advice and recommendations on indigenous issues to the parent body, as well as to programmes and agencies within the United Nations through the Economic and Social Council;*
>
> *(b) Promote co-ordination within the United Nations system of activities relating to indigenous issues;*
>
> *(c) Prepare and disseminate information on indigenous issues".*

As the Chairman-Rapporteur's report also states, "The representative of Mexico introduced the joint facilitators' paper on the mandate and terms of reference for the activities to be undertaken by the forum. He stressed that the purpose of the paper was to help find a common denominator as a basis for agreement; however, in that process other more difficult points had arisen. The task of the facilitators was to look at both aspects. He was convinced that the paper would be a basis for a further constructive dialogue between Governments and indigenous representatives. The joint facilitators provided the following mandate after their discussion:

> *To examine all the issues of Indigenous Peoples [inter alia] [concerning]: [civil], [political], economic, social, cultural, education, human rights, health, environment, development, [treaties, agreements and other constructive arrangements], women, youth, children, [and other rights related to Indigenous Peoples];*
>
> *To [review] [analyse] and promote a coherent policy, guidelines and a better co-ordination of the plans, programmes, instruments and activities related to Indigenous Peoples in the United Nations system;*
>
> *As an advisory body to provide technical support services on the issues of Indigenous Peoples for members of the United Nations and, on*

request, United Nations bodies, programmes, specialised agencies and Indigenous Peoples. It will provide advisory support to Governments that request it, especially for the elaboration of programmes and projects related to Indigenous Peoples;

To conduct studies and research, and issue reports on all those things related to its mandate; if required it will convene independent experts and establish ad hoc working groups in specialised fields of study;

To make recommendations to the Economic and Social Council on indigenous issues;

To recommend to the Economic and Social Council to [consider] convene[ing] international conferences, [and] to prepare draft standards [and to create working groups] on the issues of Indigenous Peoples;

To consult with Indigenous Peoples' organisations, Governments and non-governmental organisations concerned with matters falling within its competence;

To disseminate information on the concerns and needs of Indigenous Peoples, and on the approach of the United Nations system to Indigenous Peoples;

To promote the rationalisation, adaptation, strengthening and streamlining of the activities of the United Nations system in the field of Indigenous Peoples.

Issues that deserve to be discussed and debated:

1. The indigenous caucus wishes the following paragraphs to be incorporated:

As the mandate for the permanent forum is one of the most important aspects of the establishment of a permanent forum for Indigenous Peoples, and as this unique body will be within the United Nations system, it is recommended that the mandate be modelled on Articles 62 and 63 of the Charter of the United Nations;

The permanent forum will have a broad mandate, inter alia:

To promote peace and prosperity in accordance with the Charter of the United Nations, by developing friendly relations among nations and peoples based on respect for the principle of equal rights;[1]

405

To make recommendations to the Economic and Social Council General Assembly, other United Nations bodies and specialised agencies on urgent problems requiring immediate attention with regard to Indigenous Peoples and to develop proposals to give effect to such recommendations; [2]

2. The governmental co-facilitator informed the indigenous co-facilitator that there are delegations that prefer the term indigenous issues rather than Indigenous Peoples in the text of the mandate. The indigenous co-facilitator equally informed the governmental co-facilitator that they prefer the term Indigenous Peoples rather than indigenous issues noting the opening statement of the High Commissioner for Human Rights.

The facilitators made the following recommendations:

"Explore the possibility of including the reference to Articles 62 and 63 of the Charter in the Preamble;

Explore the possibility of introducing a reference to peace and prosperity and friendly relations among nations and peoples in the preamble."

It is clear that some Government delegations had objections to (1) Article 62 and 63 of the Charter of the UN, (2) peace, prosperity and friendly relations, (3) urgent problems requiring immediate attention and (4) using the term Indigenous Peoples. The facilitators gave the impression that there was broad agreement on other recommendations provided in the joint facilitators' paper. One wonders as to why the facilitators' other recommendations on the mandate of the forum were neither debated in a formal session nor adequately reflected in the "elements of a permanent forum".

Some government representatives expressed concern about giving any mandate to the Permanent Forum on conflict resolution. The fear is unfounded and mostly arises because of ignorance and untenable fears about ensuing interference in domestic affairs. Indigenous representatives rightly stated that subsidiary bodies of the ECOSOC do not have any mandate on conflict resolution. Interventions in conflicts or in dispute situations are made by the Secretary General, the Security Council and the International Court of Justice. The subsidiary bodies of the ECOSOC only make recommendations to their superior bodies.

Membership

The Chairman-Rapporteur's report on the issue of membership reflected the views of the facilitators and of the Indigenous Caucus. It stated that there is agreement that the membership of the Forum should be equally divided between the governments and indigenous peoples and reflect equitable geographical distribution and give due respect to gender balance. The number of the members should be between 18 and 30.

From the outset, most government representatives objected to indigenous members of the Forum being nominated or appointed to represent their communities or peoples. Indigenous representatives consistently sought to represent their peoples and communities. In the spirit of compromise indigenous peoples' representatives accepted the nomination or appointment of indigenous members in their individual capacity. But the government representatives continued to raise questions about the representativeness of indigenous members. This is despite the fact that being a member of the Forum in an individual capacity makes the question of representativeness null and void. As the indigenous peoples failed to reach a consensus on the question of individual capacity during the Second Session of the Ad Hoc Working Group, indigenous representatives lost valuable time which they could have otherwise spent on negotiating other issues.

Selection of Members

The Chairman-Rapporteur's proposals for a permanent forum provide that:

> *"The experts nominated by Governments shall be elected by the Economic and Social Council.*
>
> *One proposal is that the indigenous experts shall be appointed by the Chairperson of the Economic and Social Council following consultations with indigenous organisations and representatives.*
>
> *Another proposal is that the nomination of indigenous experts should be confirmed by the Chairperson of the Economic and Social Council, based on consultations which take into account the indigenous processes in the different regions.*
>
> *It was also emphasised that the selection of indigenous members, by whatever method, should take into account the principles of broad consultation, representativity, transparency, and equal opportunities for each community.*

407

The appointment/election of experts shall be for a period of three years, with the possibility of reappointment for one further period".

The Chairman-Rapporteur rightly reflected the observations of the facilitators. However, many governments expressed concerns about the nomination procedures of the indigenous members.

The Chairman-Rapporteur's proposals for a permanent forum also reflected the views of the facilitators on the following sub-items: (a) the participation of observers; (b) meetings; (c) the Secretariat; (d) rules of procedure/decision making and; (e) a review clause.

The Issue of a Separate Secretariat: Wither the Office of the High Commissioner for Human Rights

In their various regional declarations, indigenous peoples' representatives consistently demanded that the Permanent Forum should have its own secretariat. Government representatives, especially the United States repeatedly sought to block the establishment of the Permanent Forum by raising the financial red-herring although the United States remains the biggest defaulter for non-payment of dues to the United Nations. Canada stated that financial information is essential to convince the Foreign Office about the need of the Permanent Forum. Indigenous representatives sought specific information about the financial implications of a separate secretariat with a minimum number of staff.

At the 16th meeting, held on the 22nd of February 2000, Mr Giuliano Comba, the representative of the Administration Section of the Office of the High Commissioner for Human Rights, made a statement on the financial implications of the establishment of the Permanent Forum. He provided further clarifications on the budgetary implications of different aspects of the Forum in response to questions raised by the participants.

He said that the information regarding the financial implications of the Forum was based on the request made by the Chairperson-Rapporteur, namely a Forum meeting in Geneva for two weeks using all official languages, requiring 100 pages of pre-sessional documentation and 50 pages of post-sessional documentation, with a membership of 18 persons. He also had taken into account that there might be a need for some strengthening of the secretariat to assist with the preparations and servicing of the Forum as well as incidentals. On this basis, the administration was able to make an approximate estimate of US$470,000 which, if the legislative bodies approved the establishment of the Forum, would be absorbed by the regular budget. A

detailed PBI would be prepared when and if a draft resolution on the Forum was submitted to the Commission on Human Rights.

A number of participants requested further information about the possible costs of the Forum, in answer to which the administration's representative provided the following additional information. The average cost of the travel and daily subsistence allowance (DSA) of a single member of the Forum for a period of two weeks would be US$7300. The conference service costs for the two weeks was estimated at about US$254,000. The cost of servicing the Forum meeting in New York would be marginally higher than in Geneva as the DSA was higher. A separate secretariat with a staff of five persons would cost about US$1.5 million. If the Forum met for only one week the conference costs would be approximately US$157,000. And the costs of DSA for the five members of the Working Group on Indigenous Populations for the present biennium was US$19,200. The representative added that the information provided was only a guide, but that, since costs were standard across the United Nations, he hoped that the figures would provide some guidance.

While participants sought information on financial matters, Mr Giuliano Comba went a step further bringing the discussion round to the subject of where the Secretariat of the Forum could be *attached* rather than located. Quoting unnamed UN authorities in New York, Mr Comba stated that UN Headquarters in New York had said that the Permanent Forum could not have a separate secretariat and that therefore the Permanent Forum has to be *attached* to the Office of the High Commissioner for Human Rights. Moreover, Mr Comba explained that a separate secretariat can only be established as a result of a convention or a treaty.

Mr Comba did not clarify who it was in New York who had provided such unsolicited advice about the location of the Secretariat of the Forum. As an indigenous representative stated in reply, it is the prerogative of the Working Group to make recommendations on all matters relating to the Permanent Forum including the establishment of a separate secretariat, and it is up to the ECOSOC to accept or reject any proposal. It does not fall within the ambit of any official of the OHCHR to transgress the mandate of a Working Group. Moreover, the assertion that a separate secretariat can be established only through a convention or treaty is simply false. The ECOSOC has established many specialised agencies such as the UNICEF, FAO and WHO, all of which have separate secretariats. Moreover, the Commission on Human Settlements, a Standing Committee of the ECOSOC, established through a resolution of the ECOSOC, has a separate secretariat based in Nairobi. In fact, the unsolicited advice given by Mr Comba raises serious questions about the role of the

409

High Commissioner's Office in the establishment of a separate secretariat of the Permanent Forum. There was also reluctance on the part of the Chairman-Rapporteur to make the unequivocal assertion that indigenous representatives were calling for the establishment of a separate secretariat for the Permanent Forum.

One Spaniard's Hurdle

In the elements of a permanent forum, the Chairman-Rapporteur states,

> *"Another proposal, as set out in this report, is that the Forum should be established as a subsidiary body of the Economic and Social Council with a State-based formula of mixed composition, governmental and indigenous, on the basis of equitable regional distribution. Thus, each Member State having indigenous populations on its territory should accredit two delegates, one representing the Government and the other designated by the indigenous populations themselves.*
>
> *It has also been proposed that the Forum should be established as a subsidiary body of the Economic and Social Council as one of its functional commissions."*

This alternative proposal came about as a result of the obdurate stand taken by the Spanish delegation at the Second Ad Hoc Working Group Session. During the First Ad Hoc Working Group Session, the same distinguished representative of Spain suggested that the core group of the Permanent Forum should consist of government and indigenous representatives on an equal footing, like the International Labour Organisation model where the government, employers' associations and employees' associations all have their representatives.

As the Chairperson of the First Ad Hoc Working Group rightly stated in his consultation report E/CN.4/AC.47/2000/2, "Although this idea certainly has merits, a number of government and indigenous representatives had serious reservations about it. It was put forward, that this could lead to the exclusion of persons and organisations (and peoples) that are not considered to be indigenous. Furthermore, governments - when deciding upon the composition of the delegation - could try to chose those individuals, that underwrite the views of the government".

In the ILO tripartite system, governments, employers' associations and employees' associations are clearly identified and represented. Moreover, in the ILO tripartite system, each state delegation consists of two government

410

representatives, one employers' association representative and one employees' association representative. In the voting, each government has two votes, the employers' association representative has one vote and the employees' association representative has one vote. But, there are no such clear demarcations of different groups of representatives in the case of the Permanent Forum.

Indigenous peoples consistently and unanimously opposed the Spanish delegation's position at the Second Ad Hoc Working Group session. Indigenous representatives stated that the Chairman-Rapporteur's elements of a permanent forum should contain only those elements where there was a minimum convergence of views. However, the Spanish delegation's proposal was unanimously rejected by the indigenous delegations. Yet the Chairman-Rapporteur had to retain the Spanish proposal because of the Spanish delegation's adamant position. The Spanish representative was publicly and privately told that under this proposal, genuine indigenous representatives would never be able to represent their people unless they underwrite the views of their governments. The representative was also told that the Spanish proposal would exclude indigenous peoples from Asia and Africa where many governments continue to raise questions about the existence of indigenous peoples despite the fact that they are recognised in their own countries' domestic laws. But the Spanish delegation, in collaboration with the Mexican representatives, sought to lull some Latin American indigenous representatives into a false sense of security, by stating that a joint delegation with governments would allow the Permanent Forum to be established as a functioning Commission. Although the Mexican delegation showed itself to be flexible in regard to its proposal for a functioning Commission, the Spanish delegation sought to use veiled threats in its dealings with indigenous delegates.

Since the Working Group on Indigenous Populations was established in 1982, the Spanish delegation has been largely inactive in the process of setting standards for the rights of indigenous peoples. In the last two years the Spanish delegation's active participation at the Working Group on the Permanent Forum was welcomed by indigenous peoples. However the recalcitrant stand taken by the Spanish delegation during the second session without any regard for either the sentiments or arguments of the indigenous delegations, tended to momentarily raise questions about the Spanish government's commitment to indigenous issues. The inflexible position of the Spanish representative at the second session of the Ad Hoc Working Group almost derailed the negotiation process. It goes without saying that if the Spanish representative had withdrawn his recommendation that the ILO model be adopted, the

cause of indigenous peoples at the Permanent Forum would have advanced further. However, the constructive role of the Spanish delegation at the 56th Session of the Commission on Human Rights seems to suggest that the views of the Spanish representative at the second Ad Hoc Working Group are not necessarily those of his government.

Cuba's Ritual Hypocrisy at the Commission on Human Rights

The Commission of Human Rights continues to bear witness to the last remnants of the Cold War in the conflict between the United States and Cuba. While Cuba complains about the US-sponsored ritual resolution on the human rights situation in Cuba, its own cause has not been advanced by the destructive role of its representatives at the Commission on Human Rights. Human rights NGOs have been seriously concerned about the role of the Cuban delegation which, through its use of rules and procedures, has systematically tried to destroy human rights mechanisms. Yet many indigenous peoples consider Cuba's opposition to the United States' position as support for indigenous peoples. Cuba's representative, Mr Miguel Alfonso Martinez, often says "*I can never be more Indian than the Indians*", as a way of expressing his concerns and support for Native Americans. That such a statement it is mere lip service and a way of keeping alive the dying embers of the Cold War, was exposed at the 56th Session of the Commission on Human Rights.

During the 56th Session of the Commission on Human Rights, the Danish delegation sponsored a resolution on the establishment of the Permanent Forum based on the 'elements of a permanent forum' proposed by the Chairman-Rapporteur of the second Ad Hoc Working Group on the Permanent Forum. The Danish proposal did not contain any new elements but agreements reached at the second session of the Ad Hoc Working Group in February 2000. The Commission on Human Rights adopted the following resolution 2000/87:

> *" The Commission on Human Rights...*
>
> *1. Decides to establish as a subsidiary organ of the Council a permanent forum on indigenous issues consisting of 16 members, eight members to be nominated by Governments and elected by the Council and, eight members to be appointed by the President of the Council* following formal consultation with the bureau and the regional groups through their co-ordinators *[my italics], on the basis of broad consultations with indigenous organisations taking into account the diversity and*

geographical distribution of the indigenous people of the world as well as the principles of transparency, representativity and equal opportunity for all indigenous people, including internal processes, when appropriate, and local indigenous consultation processes *[my italics]; all members serving in their personal capacity as independent experts on indigenous issues for a period of three years with the possibility of re-election or reappointment for one further period; States, United Nations bodies and organs, intergovernmental organisations and non-governmental organisations in consultative status with the Council may participate as observers; organisations of indigenous people may equally participate as observers in accordance with the procedures which have been applied in the Working Group on Indigenous Populations;*

2. Decides that the Permanent Forum on Indigenous Issues shall serve as an advisory body to the Council with a mandate to discuss indigenous issues within the mandate of the Council relating to economic and social development, culture, the environment, education, health and human rights; in so doing the Forum will:

a) Provide expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Council;

(b) Raise awareness and promote the integration and co-ordination of activities relating to indigenous issues within the United Nations system and;

(c) Prepare and disseminate information on indigenous issues;

3. Decides that the Permanent Forum shall apply the rules of procedures established for subsidiary organs of the Council as applicable, unless otherwise decided by the Council; the principle of consensus shall govern the work of the Forum;

4. Also decides that the Permanent Forum shall hold an annual session of 10 working days at the United Nations Office at Geneva or at United Nations Headquarters or at such other place as the Permanent Forum may decide in accordance with existing financial rules and regulations of the United Nations;

5. Further decides that the Permanent Forum shall submit an annual report to the Council on its activities, including any recommendations for approval; the report shall be distributed to the relevant United Nations organs, funds, programmes and agencies as a means, inter

413

alia, of furthering the dialogue on indigenous issues within the United Nations system;

6. Decides that the financing of the Permanent Forum shall be provided from within existing resources through the regular budget of the United Nations and its specialised agencies and through such voluntary contributions as may be donated;

7. Also decides that five years after its establishment, an evaluation of the functioning of the Permanent Forum, including the method for selection of its members, shall be carried out by the Council in the light of the experience gained;

8. Further decides that once the Permanent Forum has been established and has held its first annual session, the Council will review, without prejudging any outcome, all existing mechanisms, procedures and programmes within the United Nations concerning indigenous issues, including the Working Group on Indigenous Populations, with a view to rationalising activities, avoiding duplication and overlap and promoting effectiveness.

When the draft resolution (E/CN.4/2000/L.68) on the Permanent Forum came up for debate in the afternoon session of the 25th of April 2000, Mr Miguel Alfonso Martinez of Cuba was the first one to make an intervention. He said that the creation of a Permanent Forum for indigenous people would present a number of problems. Cuba had problems with operative paragraphs 1 and 8. Amongst the other worries it had concerning these paragraphs, Cuba wondered how indigenous people would be able to agree on eight names, given the diversity of views on indigenous matters and the number of nations with indigenous populations. Cuba also expressed concerns about the abolition of the Working Group on Indigenous Populations and asked for separate votes on operative paragraph 1 and operative paragraph 8.

Cuba was fully supported by the United States. As soon as Cuba said that it had problems with operative paragraphs 1 and 8 and called for a separate vote on these paragraphs, the US delegation echoed that it also had trouble with the selection of indigenous members of the Permanent Forum and the cost of the Permanent Forum. The US delegation asked for a suspension of the debate.

Indonesian representative, Nugroho Wisnumurti, speaking on behalf of the Asian Group raised the ritual issue of definition and expressed concern about the mandate of the Permanent Forum. During the negotiations, Asian

governments expressed disagreement with operative paragraph 1 on the nomination of indigenous representatives. Asian Governments wanted the power of veto over the nomination of indigenous representatives.

The debate on the Permanent Forum on the 25th of April 2000 was suspended. When the draft resolution came up for voting on the 27th of April 2000, none of the Asian countries formally requested a vote on operative paragraph 1. It was Mr Miguel Alfonso Martinez of Cuba who once again called for a vote on operative paragraphs 1 and 8. At the insistence of Cuba, the United States and Asian governments, the following texts were inserted into the draft resolution: "*following formal consultation with the bureau and the regional groups through their co-ordinators*" and "*including internal processes, when appropriate, and local indigenous consultation processes*".

It is intriguing that Cuba abstained from voting on the entire resolution on the Permanent Forum after asking for a vote. Mr Martinez stated that the Cuban delegation abstained because the resolution left doubts about the treatment of indigenous issues by the United Nations. He went on to say that Cuba would reserve its position until the Forum had been properly evaluated.

Mr Martinez's assertion is not convincing. If the Cuban delegation is so concerned about the treatment of indigenous issues at the United Nations, it should not have asked for a vote on operative paragraph 1, supporting the United States' and Asian government positions that further watered down indigenous peoples' right to nominate their own representatives. While Cuba's position on the future of the Working Group on Indigenous Populations as contained in operative paragraph 8 is understandable as Mr Martinez is a member of the WGIP, the request for a vote on operative paragraph 1 raises serious questions about Cuba's self-proclaimed concerns about the United Nations' treatment of indigenous issues. Cuba asked for vote on paragraph 1 in order to gain support from the Asian States for its proposal on paragraph 8, at the expense of indigenous peoples all over the world. From the beginning, Cuba opposed the Permanent Forum although its representatives at the Ad Hoc Working Group provided different views from Mr Martinez. Cuba's statement at the Commission that it "*would reserve its position until the evaluation of the Forum had been undertaken*", is nothing but a veiled threat that Cuba would oppose the Permanent Forum after evaluation, if the WGIP is abolished in the meantime. It was also clear that if Cuba had supported the resolution by not asking for a vote, the final resolution would have been different.

On the 27th of April 2000, the resolution was adopted in its entirety by a roll call vote of 43 in favour to none against with nine abstentions, following

J - 415

a roll call vote of 11 in favour to 21 against with 21 abstentions which rejected an amendment to the text. In a second roll call vote, a paragraph to amend the amendment of a preambulatory paragraph was accepted by a vote of 21 in favour to six against with 26 abstentions. The accepted paragraph reads: "Stressing that the establishment of the permanent forum should lead to a careful consideration of the future of the working group on indigenous populations", which was incorporated in the text of the resolution.

In a show of hands, it was decided to retain operative paragraph 1 of the text by a majority of 43 in favour to none against with nine abstentions. And in another show of hands vote the Commission decided to retain operative paragraph 8 by a majority of 35 in favour to none against with 16 abstentions.

Conclusions

Although, the Commission on Human Rights adopted resolution 2000/87 on the establishment of a permanent forum on indigenous issues, the establishment of the Permanent Forum is a classical case of so near, yet so far. The explanation given by the Secretariat of the Office of the High Commissioner for Human Rights on the issue of separate secretariat is '*DISTURBING*' to say the least. A separate secretariat for the Permanent Forum with five staff costing only US$1.5 million per annum to be paid for by 185 member States of the UN is too little too late. So much opposition still remains, even from the Office of the High Commissioner for Human Rights. At the 56th Session of the CHR, the Indian delegation stated that it would raise its concerns at the Economic and Social Council. Moreover, indigenous peoples have yet to resolve the issue of the geographical division of the indigenous world. Given the fact that indigenous peoples recommended a division into 17 regions during the second Session of the Ad Hoc Working Group meeting, the appointment of eight members as provided for by the CHR resolution calls for pragmatism and a spirit of compromise. Ultimately, it is the unity of indigenous peoples, often expressed through the indigenous caucus, that can provide indigenous peoples with leverage they need.

Notes

1 Declaration on the Rights of Peoples to Peace.
2 The term 'Urgent problems' was used in respect of the establishment of the Sub-Commission for the Promotion and Protection of Human Rights.

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417

ENGLISH PUBLICATIONS 1999/2000

DOCUMENTS

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IWGIA English document no. 97, 1999.
ISBN: 87-90730-18-6, ISSN: 0105-4503
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419

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By John B. Henriksen

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By Florencia Roulet

This book gives a detailed description of the existing international mechanisms for prevention and compensation of serious violations of the fundamental rights of indigenous peoples. The book offers the reader a collection of basic information on the possibilities and limitations of United Nations action in the field of human rights. In French & English, 1999.

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Edited by Lola García-Alix

This document is a compilation of reports and papers mostly taken from the official United Nations documentation. It also includes the background to the discussion on the establishment of a Permanent Forum for indigenous peoples and a technical description of the United Nations system. In Spanish & English 1999.

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427

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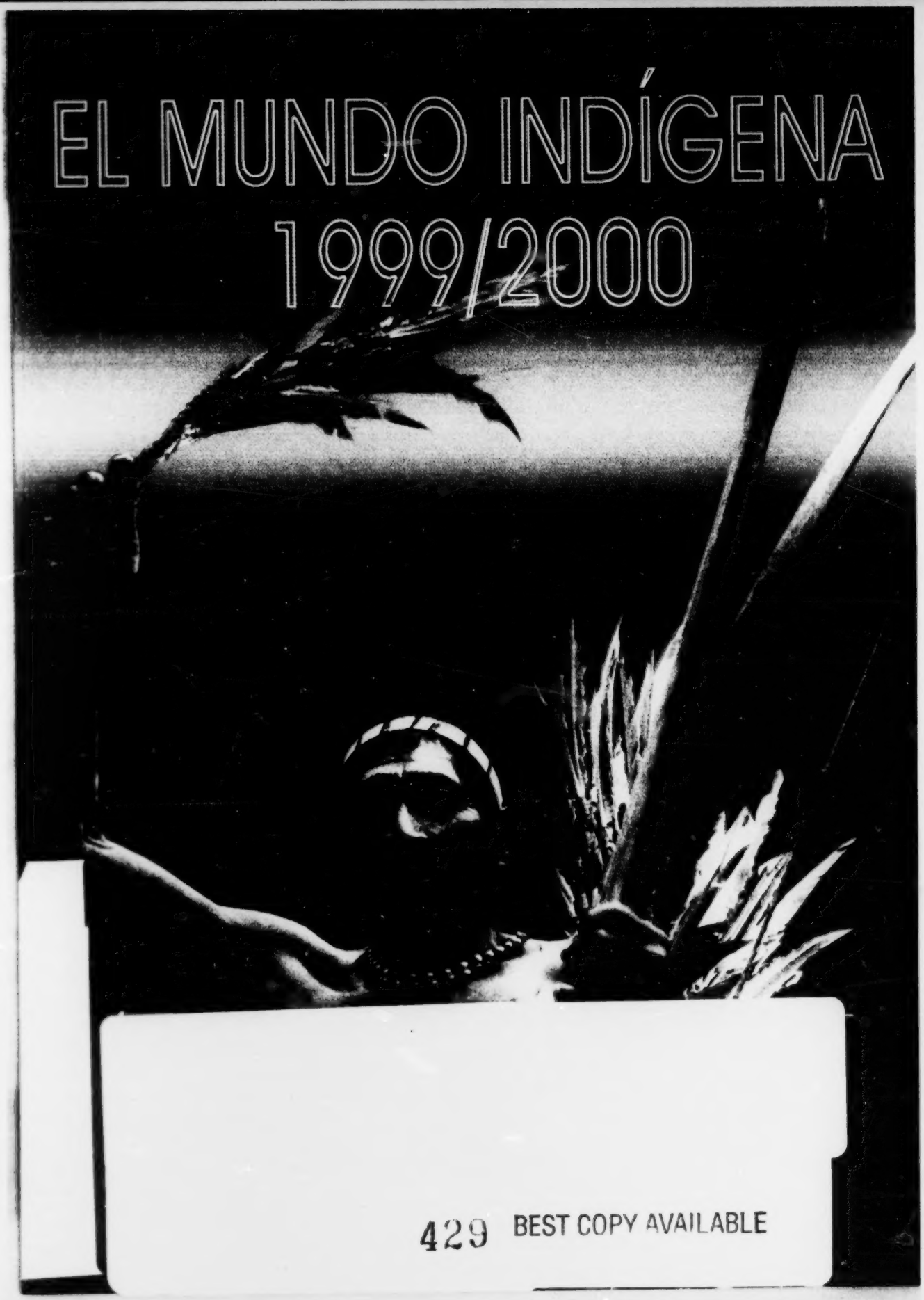

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1999-2000

IWGIA
Copenhague 2000

430

ISSN 0105-4503 ISBN 87-90730-28-3

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Portada: Jorge Monras

Foto de portada: Indígena harakmbut de Madre de Dios, Perú. Pablo Lasansky

Tipografía: Christian Erni

Preimpresión e Impresión: Eks-Skolens Trykkeri, Copenhague, Dinamarca

Traducción de los textos en inglés y corrección: Mario Di Lucci

Compilación: Christian Erni; la sección sobre América Latina: Alejandro Parellada

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CONTENIDO

Nota del Editor. 7

Parte I: El Mundo Indígena

El Ártico 19
América del Norte 45
México y América Central 61
América del Sur 85
El Pacífico y Australia 155
Asia Oriental 195
Asia Suroriental 209
Asia del Sur 293
África 335

Parte III: Derechos Indígenas

La Declaración Preliminar sobre los Derechos de los Pueblos Indígenas Continúa en su Problemático Camino a través de las Naciones Unidas

por Sarah Pritchard 385

Foro Permanente sobre Asuntos Indígenas: Persiguiendo el Espejismo

por Suhas Chakma 408

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Documentos Disponibles 434

432

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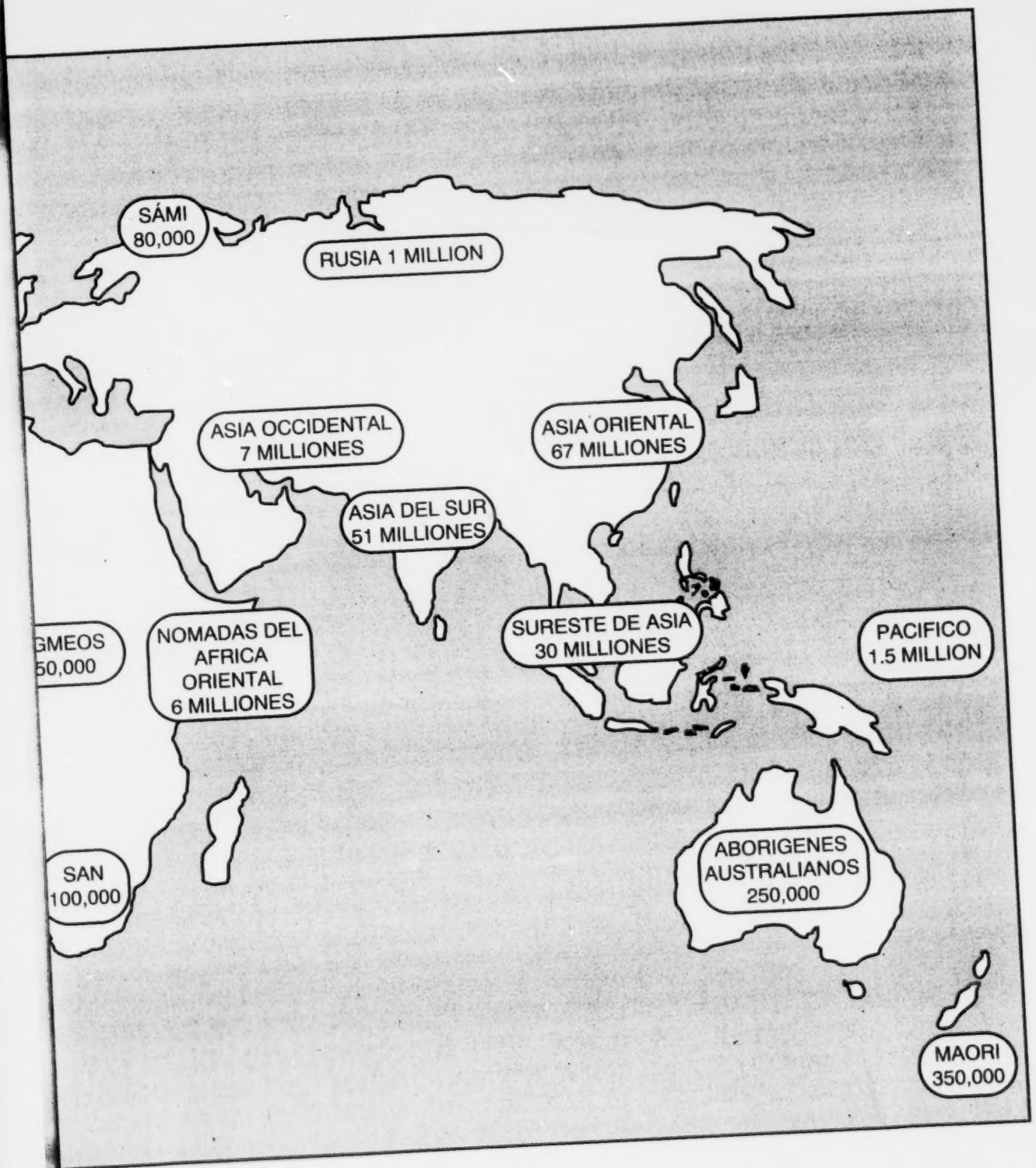

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NOTA DEL EDITOR

La respuesta que hemos recibido hasta ahora de los lectores del anuario ha sido en general bastante positiva. Pero también nos han hecho tomar conciencia de una serie de limitaciones que la publicación aún tiene. El informar comprensivamente sobre los desarrollos más cruciales en el mundo indígena es una tarea magnífica, y siempre tendrá que seguir siendo una meta a la que poder aproximarse, pero nunca alcanzar. El mundo indígena es demasiado variado y complejo, y nuestra limitada capacidad hasta el momento no permite investigaciones más extensas para ampliar la cobertura a más regiones y pueblos. La escritura se ha hecho hasta ahora completamente sobre una base voluntaria, por un gran número de autores indígenas y no indígenas. Quienquiera que encuentre que hay asuntos importantes que estén faltando y deban cubrirse, por lo menos en futuros números, contáctenos y proporciónenos la información.

En respuesta a una crítica, hemos quitado la sección separada dedicada a las mujeres indígenas que habíamos introducido hace sólo dos años. Encontramos el argumento convincente de que, tratando los problemas de las mujeres indígenas en una sección separada, se crea una división que puede dar la impresión de que la primera parte, la más grande del libro, se consagra solamente a los problemas de los hombres indígenas. Siguiendo el consejo dado en la crítica, los autores contribuyentes fueron alentados a incluir los problemas de las mujeres indígenas en sus artículos, y se integraron artículos separados en los capítulos regionales.

El editor es consciente que, de nuevo, importantes regiones o problemas no se tratan en la edición de este año. Sobre todo es notable la falta de informes sobre los desarrollos cruciales en China, Canadá y los Estados Unidos. La razón para esta lamentable omisión es simplemente que los manuscritos prometidos no fueron entregados. Por consiguiente, nosotros apreciamos mucho al autor deseoso de proporcionarnos en el último minuto los artículos resumidos de algunos de los desarrollos más importantes en América del Norte, como en Nunanvut. Y apreciaremos cualquier sugerencia y sobre todo las contribuciones concretas al número del próximo año que esperamos se acercará un poco más al ideal de la cobertura comprensiva de los desarrollos reales en el mundo indígena.

CONTRIBUCIONES

IWGIA desearía expresar su caluroso agradecimiento a las siguientes personas y organizaciones por haber contribuido con *El Mundo Indígena*:

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México, América Central y del Sur

Esta sección ha sido compilada y editada por *Alejandro Parellada,* Coordinador del Programa para América Latina de IWGIA y editor de la serie de ***Documentos.***

436

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Fernando Bittencourt, es el Secretario Ejecutivo de la ONG CCPY y *Mariana Valente* es la administradora de la misma organización *(Brasil)*

Aracely Burguete Cal y Mayor, es socióloga e investigadora del Centro de Investigación y Estudios Superiores en Antropología Social (CIESAS) y asesora de la organización indígena ANIPA *(Mexico).*

Morita Carrasco, es antropóloga, investigadora y docente de la Universidad de Buenos Aires. En los últimos años ha trabajado en el Gran Chaco y Patagonia *(Argentina).*

Santiago Bastos y *Manuela Camus,* son antropólogos sociales e investigadores de FLACSO-Guatemala *(Guatemala).*

Dennis Williamson Cuthbert, es economista y director del Centro de Investigación y Documentación de la Costa Atlántica (CIDCA/UCA) *(Nicaragua).*

Carlos Viteri Gualingai, es indígena quicha amazónico, antropólogo y periodista *(Ecuador).*

Pedro Garcia Hierro, es abogado, asesor de varias organizaciones indígenas de la selva peruana y presidente de la ONG Racimos de Ungurahui *(Perú).*

Dorthe Kristensen, es antropóloga y miembra del Grupo Nacional de IWGIA de Dinamarca. En la actualidad realiza su trabajo de campo en Chile *(Chile).*

René Kuppe, es abogado y profesor del Departamento de Antropología Jurídica de la Universidad de Viena, Austria. Se desempeña también como asesor legal de varias organizaciones indígenas a nacional e internacional *(Venezuela)*

Atencio López, es abogado del pueblo kuna y miembro de la ONG indígena Napguana *(Panama).*

Leonardo Tamburini, abogado. Trabaja en el Centro de Estudios Jurídicos e Investigación Social, CEJIS, de Santa Cruz. También asesora a organizaciones indígenas en temas forestales *(Bolivia).*

437

Rodrigo Villagra, es abogado y antropólogo, miembro del equipo de campo de la ONG Tierraviva *(Paraguay).*

El Pacífico y Australia

Peter Jull, trabajó con los inuit y otros pueblos indígenas del hemisferio norte y ha trabajado con los isleños del Estrecho Torres y los pueblos aborígenes en Australia, donde actúa en el Departamento de Gobierno de la Universidad de Queensland. *Jodhi Rutherford* investiga y escribe sobre política de derechos humanos nacional e internacional, viaja a menudo pero está establecido en Brisbane *(Australia).*

Nic Maclellan, trabaja en el Centro de Recursos de Intereses del Pacífico (PCRC) en Suva, Fiji. Es co-autor de varios libros sobre el Pacífico Sur *(Pacífico).*

Asia Oriental

Yupo Abe, es miembro del consejo ejecutivo de la Asociación Ainu de Hokkaido desde 1996. Desde entonces, ha asistido regularmente a las conferencias de las Naciones Unidas sobre pueblos indígenas. *Masaharu Konaka,* ha trabajado como secretario para la Liga de Liberación Buraku, Tokyo por varios años. Desde que regresó a Sapporo ha estado involucrado en el trabajo de traducción de las actividades del pueblo ainu*(Japón: Ainu).*

Asia Suroriental

Joan Carling, es Secretaria General de la Alianza de los Pueblos de la Cordillera (CPA) establecida en Baguio en las Cordilleras de Luzon del Norte en las Filipinas *(Filipinas).*

Danilo Geiger, es antropólogo social y trabaja actualmente en el Departamento de Antropología Social de la Universidad de Zurich, Suiza. Es un de los miembros fundadores del Grupo Nacional IWGIA Suiza y ha vivido y trabajado intensamente con los pueblos indígenas de las Filipinas e Indonesia *(Indonesia).*

Jannie Lasimbang, es una dusum-kadazan de Sabah. Trabaja como instructora en PACOS (Partners of Community Organisations), asociación instituida para las comunidades indígenas en Sabah. Actualmente ella es Presidenta de la Red Regional Pacto de los Pueblos Indígenas de Asia (AIPP) *(Malaisia: Sabah).*

Luingam Luithui, es un naga tangkhul de Ukhrul. Tiene una maestría en Economía Política Forestal. Es uno de los miembros fundadores del Movimiento de los Pueblos Naga por los Derechos Humanos (NPMHR) y actualmente está cumpliendo su segundo período como secretario general del Pacto de los Pueblos Indígenas de Asia *(AIPP).*

Jimid Mansayagan, es un erumanen ne menuvu de Mindanao Cantral. Por 11 años ha sido secretario general de Lumad Mindanaw [Federación de Pueblos] y actualmente está comprometido con un movimiento indígena llamado Kebager te Ked-Inged *(Filipinas: Mindanao).*

Hanneke Meijers, es consultora en recursos naturales y género. Ha trabajado en Asia, África y Asia Suroriental. Desde 1990 vive y trabaja en Camboya *(Camboya).*

Colin Nicolas, es el Coordinador del Centro de Intereses Orang Asli (COAC), Kuala Lumpur, Malaisia *(Malaisia: Orang Asli).*

Dario Novellino, antropólogo social, es consejero internacional de Bansa Palawan, Filipinas (BPP). Actualmente es candidato al Doctorado en Antropología Ambiental de la Universidad de Kent en Canterbury (UK), e investigador asociado visitante (VRA) del Instituto Filipino de Cultura, Universidad Ateneo de Manila *(Filipinas: Palawan).*

Torben Retboell, enseña Historia y Latín en la Katedralskole de Aarhus, Escuela Universitaria en Aarhus, Dinamarca. Ha escrito y editado varios libros sobre los medios de difusión y asuntos internacionales, incluyendo tres documentos IWGIA sobre Timor Oriental (publicados en 1980, 1984 y 1998) *(Timor Oriental).*

Debbie Stothard, es Coordinadora de Altsean-Burma (Alternative Asean Network on Burma), red de organizaciones activistas de estados miembros de Asean que apoyan los derechos humanos y la democracia en particular en Burma y en Asia Suroriental en general. Ha estado trabajando en apoyo de Burma por 12 años *(Burma).*

Prasert Trakansuphakon, es un pgakenyaw (karen) del norte de Tailandia. Actualmente es Director de Educación y Cultura del Pueblo Inter Montañés de Tailandia (IMPECT), una ONG indígena que trabaja en las provincias del norte de Tailandia *(Tailandia).*

Victoria Tauli Corpuz, coordinadora y actualmente Directora Ejecutiva de la Fundación Tebtebba donde está establecida la Red Asiática de

Mujeres Indígenas (AIWN). *Bernice Aquino See,* trabajadora de la Red – es actualmente Secretaria General de Innabuyog, la Federación Regional de Organizaciones de Mujeres en la Cordillera, Filipinas, miembro activo de AIWN *(Red Asiática de Mujeres Indígenas).*

Asia del Sur

Ratnaker Bhengra, abogado y miembro de la Organización Jharkandis por los Derechos Humanos (JOHAR) establecida en Ranchi que trabaja por la autonomía dentro del estado de la India. Es miembro activo del movimiento contra el reasentamiento forzado *(India: Jharkand).*

Natasha Horn, es estudiante de tercer año de Geografía en la Universidad Durham, UK. Ha estado trabajando por un año con RLEK como investigadora asociada *(India: Van Guijar).*

Dr. B. Janardhan Rao, es Profesor Adjunto del Departamento de Administración Pública y Gestión de Recursos Humanos de la Universidad Kakatiya, Warangal, Andhra Pradesh. Es el Coordinador del Comité de Solidaridad Adivasi en Warangal y miembro del Comité Central del Comité de Coordinación de Toda la India *(India: Andra Pradesh y Orissa).*

Red de los Pueblos Jumma (JUPNET), es una organización establecida y administrada por indígenas jumma que residen en diversos países de Europa y otras partes. JUPNET trata de promover los derechos de los indígenas jumma a través del diálogo, la negociación y otros métodos pacíficos *(Bangladesh: Chittagong Hill Tracts).*

Wiveca Stegeborn, es Antropóloga Cultural Adjunta de la Universidad de Tromsoe, Noruega, donde defenderá su disertación de doctorado. Ha realizado investigaciones sobre los wanniyala-aetto de Sri Lanka por 23 años *(Sri Lanka).*

Parshu Ram Tamang, es el Secretario General de la Federación de Nacionalidades de Nepal (NEFEN). Durante más de veinte años ha trabajado para promover la causa de los pueblos indígenas de Nepal. Ha escrito libros sobre los pueblos indígenas tamang y janajati y trabaja como profesor en el Universidad Tribhuran de Nepal *(Nepal).*

Ulf Wolf-Jacobsen, es asesor en Información/Comunicación e Intercambio para la Backward Society Education (BASE), un movimiento de medios masivos por y para los pueblos tharu, los pueblos indígenas del suroeste de Nepal, que cuenta con más de 30.000 miembros *(Nepal: Kamaiya).*

410

África

Maureen Akena, trabaja como asistente del Activism Programme para DITSHWANELO, el Centro de Botswana para los Derechos Humanos con sede en Gaborone, capital de Botswana *(Botswana: El caso de la pena de muerte).*

Ivan Baehr, es antropólogo social. Actualmente trabaja como asesor de proyecto para el "First People of the Kalahari". Ha estado apoyando las consolidación institucional de la planificación de base comunitaria y organizacional y el programa de recolección de información. *(Botswana: El juego de Kalahari Central)*

Magdalena Brörmann, es orientadora del Grupo de Trabajo Sudafricano sobre Minorías Indígenas (WIMSA) *(Namibia: San).*

Nigel Crawhall, es socio-lingüista y actualmente es el Director de Proyecto del Comité Coordinador de los Pueblos Indígenas de África. Trabaja actualmente en una Auditoría de Recursos Culturales con los =khomani san bajo los auspicios del Instituto San Sudafricano (SASI). *Cecil LeFleur,* es un activista indígena en Sudáfrica. Es miembro ejecutivo de la Conferencia Nacional de Griqua, delegado de IPACC, delegado del Foro Nacional Khoe-San y presidente del Commonwealth Association of Indigenous Peoples *(Introducción a África y Sudáfrica).*

Dorothy Jackson, tiene un doctorado en Ecología de los Bosques Tropicales (Universidad de Oxford) y realizó trabajo de campo sobre bosques tropicales y entomología en el norte de Tailandia, Colombia y Camerún. Actualmente trabaja como encargada de proyectos del Programa para los Pueblos del Bosque (FPP) del World Rainforest Movement *(La Región de los Grandes Lagos).*

Lucy Mulengkei, es una activa trabajadora maasai en la Red de Información Indígena en Nairobi, Kenya. Diana Vindig trabaja actualmente como Coordinadora del Programa de Asia en el Secretariado Internacional de IWGIA *(Kenya).*

Liban Wako Adi, es un boran oromo, realiza estudios de posgraduación en la Universidad de Western Sidney, Australia *(Etiopía: Oromo).*

441

Parte III: Derechos Indígenas

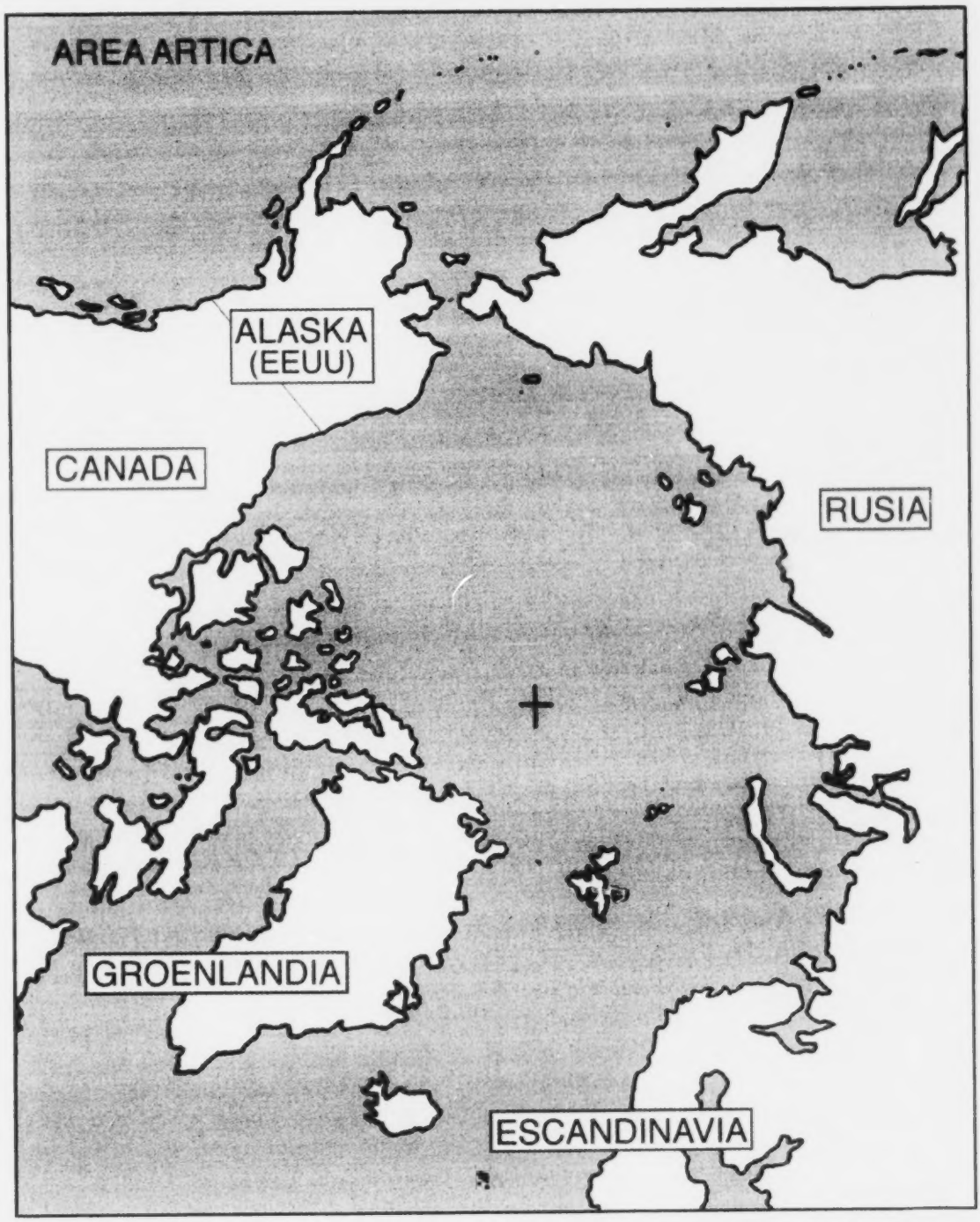
Dr. Sarah Pritchard, abogada australiana y académica en la Facultad de Leyes de la Universidad de New South Wales. Ha trabajado durante algunos años con las organizaciones de aborígenes en Australia y en las Naciones Unidas *(Naciones Unidas: Grupo de Trabajo Intersectorial).*

Suhas Chakma, es Director de la Red Asiática de Pueblos Tribales e Indígenas con sede en Nueva Delhi. Escribió "Foro Permanente sobre Asuntos Indígenas: Las posibles posiciones de los Pueblos Indígenas" para un taller sobre el tema realizado en Copenhague el 7 y 8 de enero de 2000. También es periodista freelance y escribe regularmente en periódicos ingleses de India *(Naciones Unidas: Foro Permanente).*

442

PARTE I

EL MUNDO INDÍGENA



Países/regiones tratados en esta publicación: Alaska, Canadá, Groenlandia, Rusia y Sápmi

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EL ÁRTICO

ALASKA

El debate sobre la subsistencia

El debate sobre la subsistencia continuó dominando en Alaska durante todo 1999 y en el nuevo milenio. Lo que está en cuestión es si los residentes de Alaska rural (en su mayoría pueblos indígenas) deberían ser garantizados una preferencia en la pesca y la caza en tiempos de escasez, o no. Una ley federal de 1980, la Ley Nacional de Alaska de Interés en la Conservación de Tierras (ANILCA), preveía tal provisión restaurando parcialmente los derechos aborígenes de caza y pesca que fueron abolidos en la Ley de Acuerdo de las Demandas Nativas.

Fue aprobada una ley del estado de Alaska que implementaba los requisitos federales en toda Alaska pero una demanda presentada en la corte estatal de Alaska por grupos de cazadores y pescadores deportivos se contrapuso a esta ley estatal y en 1990, la Suprema Corte de Alaska sentenció que la ley era inconstitucional. Esto puso a la ley del Estado de Alaska en oposición a la ley federal de los EE.UU. El resultado fue que el gobierno federal se hizo cargo del manejo de animales de caza en tierras federales en Alaska en 1991.

El proceso de hacerse cargo de la pesca en aguas de control federal en Alaska tomó mucho más tiempo que la del manejo de los animales de caza en tierras federales. Los peces son un componente crucial de la vida de los nativos de Alaska y constituyen el 59% de su dieta de subsistencia. Después de numerosas moratorias, extensiones y demoras, con el propósito de otorgar al Estado de Alaska la oportunidad de cumplir con la ley federal, el gobierno federal se hizo cargo del manejo de la pesca en aguas de control federal el 1 de octubre de 1999.

Previo a la toma de control del manejo de la pesca en aguas de control federal, se presentó un caso legal en el sistema judicial. Este caso, *Katie John vs.United States*, fue el resultado de Katie John, una mujer *ahtna athabasca* de la región del Río Copper superior, que demandó al gobierno federal en 1984 para que le permitiera retomar la pesca en su campamento de pesca tradicional. El Estado de Alaska le había prohibido pescar en el campamento ancestral de su familia desde 1964. El caso alcanzó al Noveno Circuito de Corte de Apelaciones de los EE.UU. en 1994 y se sentenció que aquellas aguas internas que fluyen a través o tocan tierras federales caen bajo la protección de ANILCA y los residentes rurales tienen una prioridad de subsis-

tencia. La implementación de esta sentencia fue demorada por una serie de moratorias congresales en intentos de dar tiempo a la Legislatura de Alaska para cumplir con ANILCA. La solución requerida habría sido una enmienda constitucional del estado de Alaska que tendría que haber sido aprobada por un voto de todos los ciudadanos de Alaska. Sin embargo, este voto no puede realizarse a menos de que dos tercios de la legislatura aprueben someter la enmienda a un voto popular. A pesar de sesiones legislativas especiales (incluyendo una en 1999) sobre subsistencia y varias sesiones regulares, no se han logrado los dos tercios de los votos para llevar el tema a la votación. Esto es así a pesar del hecho de que los relevamientos han mostrado consecuentemente que una gran mayoría de los votantes de Alaska aprueban la prioridad de la subsistencia para los residentes rurales.

En una acción que chocó y defraudó a mucha gente en la comunidad nativa de Alaska, el Gobernador de Alaska Tony Knowles anunció en enero del 2000 que el Estado de Alaska iba a apelar la sentencia del Noveno Circuito de Corte en el caso de Katie John frente a la Suprema Corte de los EE.UU. Esta acción causó que la Federación de Nativos de Alaska llamara a una convención especial para decidir cómo responder a la acción del gobernador. Con menos de dos semanas de aviso, el 90% de los todos los delegados de AFN asistieron a una convención especial celebrada en Anchorage el 15 de febrero. La convención aprobó seis resoluciones delineando un curso de acción para AFN. En la primera de las resoluciones se resolvió que, "la Federación de Nativos de Alaska utilizará todos los recursos disponibles políticos, económicos y legales, para oponerse y derrotar la apelación de la decisión (Katie John)". AFN cambió su curso mantenido durante mucho tiempo de apoyar el manejo de la pesca y de la caza por parte del estado si el estado cumple con la ley federal diciendo, "la Federación de Nativos de Alaska no apoyará más los esfuerzos para retornar el manejo de subsistencia al Estado de Alaska, por enmienda constitucional o de otra manera, a menos que la dirección electa del Estado, incluyendo al Gobernador, reconozca las necesidades reales de los Nativos de Alaska acordando un manejo conjunto Estatal-Tribal y formalizando e implementando una jurisdicción conjunta sobre las aguas navegables para asegurar la subsistencia de todos los Nativos de Alaska".

Mientras que los alimentos de subsistencia son una parte importante de la economía de la Alaska rural, son mucho más que una necesidad económica para los pueblos indígenas de Alaska. La subsistencia se encuentra en el mismo centro de los valores culturales y la identidad. Y mientras que se han hecho estimaciones que dicen que sin alimentos de subsistencia los nativos de Alaska tendrían que pagar $20 millones de dólares por año más en concep-

to de alimentos, no es sólo por esta razón que sienten una necesidad por alimentos de subsistencia. La subsistencia es considerada una necesidad fundamental para la salud mental y una fuente de fortaleza para los 100.000 nativos de Alaska. Sobre todo, el derecho a vivir un estilo de vida de subsistencia es considerado un *derecho humano*. "La subsistencia de los nativos de Alaska es un derecho humano a la alimentación y un derecho cultural a continuar existiendo como pueblo", expresó una resolución de la Federación de Nativos de Alaska.

Irónicamente, la subsistencia basada en la pesca en Alaska es muy pequeña comparada con lo que usufructúan los otros dos usuarios, el comercio y el deporte. Los usuarios de subsistencia pescan nada más que el cuatro por ciento de los peces. El otro 96% es pescado por los pescadores comerciales y deportivos.

El líder nativo Morris Thompson muere en un accidente aéreo

Morris Thompson, uno de los más conocidos líderes indígenas de Alaska, fue una de las 88 personas fallecidas el 31 de enero del 2000 cuando el Vuelo 261 de Alaska Airlines se precipitó en el Océano Pacífico en un vuelo de Puerto Vallarta, México a San Francisco. Su esposa e hija también perecieron en el accidente.

Thompson, un indígena athabasca de Tanama, se retiró el pasado diciembre como presidente y jefe ejecutivos de Doyon Ltd., un cargo que había tenido desde 1985. Doyon es la corporación formada bajo la Ley de Acuerdos de Demandas Nativas de Alaska para representar a los pueblos del interior de Alaska. La corporación posee 12,5 millones de acres de tierra, convirtiéndola en el mayor terrateniente privado de los Estados Unidos. Doyon ha sido considerada como muy exitosa como corporación comercial y generó $79,9 millones en concepto de ingresos durante el último año de Thompson como presidente. La corporación tiene 900 empleados y 14.000 accionistas, en su mayoría athabasco.

Thompson estuvo a cargo de posiciones de alto nivel antes de encargarse de Doyon, incluyendo la de Comisionado del Buró de Asuntos Indios durante la administración de Nixon., Presidente de la Federación de Nativos de Alaska y miembro del gabinete del Gobernador de Alaska Walter Hickel durante su primer término en los años 60.

La Convención especial de la Federación de la Subsistencia Nativa celebrada el 15 de febrero fue dedicada a la memoria de Thompson.

CANADÁ

Nunavut

Siento como si hubiera estado mirando una revolución en cámara lenta. Han tenido lugar cambios profundos en nuestras vidas y nuestra sociedad. Del aislamiento casi total del mundo exterior de mis primeros años en Resolute Bay, en el Ártico profundo, a la edad del espacio y la computadora, cuando el mundo está en las yemas de mis dedos, ha sido una jornada de dolor, alegría y aventura.

John Amagoalik

El 1 de abril de 1999 era el primer día de Nunavut, el nuevo territorio del norte de Canadá. Nunavut, "Nuestra tierra" en el idioma *inuit*– cuyo nombre significa "el pueblo" en el idioma oficial „Inuktitut "–, es un área de dos millones de kilómetros cuadrados ubicada en las regiones árticas canadienses sobre la bahía de Hudson. Con la conquista de Nunavut, los *inuit* tienen el control sobre este territorio, muy parecido a que una tribu nativa recibiera la categoría de estado en los Estados Unidos. Un día memorable para Canadá y las Primeras Naciones, los residentes han ganado el derecho al auto gobierno. Queda por verse, si este derecho no va a ser minado por la necesidad de crear empleos en la industria minera, las corporaciones multinacionales las cuales pueden moverse fácilmente hacia adentro y hacia fuera de las constricciones del empleo que comienzan a extraer la riqueza natural de los *inuit* de forma no sustentable.

Nunavut se ha creado dividiendo la provincia canadiense de los Territorios del Noroeste: La parte occidental mantiene aproximadamente un tercio del tamaño original y conserva su nombre original. La parte oriental comprende el nuevo territorio de Nunavut. Ochenta por ciento de la población es *inuit*.

Algunas fechas importantes en la reciente historia pavimentaron la larga marcha hacia esta decisión memorable: Durante los años veinte y los treinta, la mayoría de los *inuit* estaba preocupada por los fluctuantes precios de las pieles, las epidemias y la escasez de vida salvaje. Una carga adicional fue el establecimiento de cinco escuelas con internado que sacaba a los niños *inuit*, a partir de los cinco años, de sus familias y el contexto entero de cultura *inuit*, a veces durante años. Los incidentes de abuso físico y sexual también tuvieron lugar en algunas escuelas de internos perteneciente a la iglesia. En gene-

ral, sin embargo, el *inuit* conservó su idioma y sentido de independencia, dentro de o a pesar de la mal definida autoridad de los "Tres Grandes": la policía, el comerciante y el misionero. Después de la Segunda Guerra Mundial, en respuesta a la migración de *inuit*s entre las áreas de caza y de trampas, los gobiernos comenzaron a mudar a las familias a los supuestos lugares de oportunidad, tales como Churchill, Manitoba, y el nuevo pueblo de Inuvik, Territorios del Noroeste (NWT). A mediados de los años sesenta, un programa de viviendas público federal, completado con una fase de la orientación, creó pueblos instantáneos, usando unidades prefabricadas. Esto terminó con la antigua distribución esparcida del campamento *inuit*.

El presidente de Francia, Jacques Chirac conversa con el premier de Nunavut, Paul Okalik durante una ceremonia de bienvenida en honor del jefe de estado francés realizada en la asamblea legislativa de Nunavut en septiembre de 1999 (Foto: Sitio de Internet de Nunavut).

Veinte Años de Tenaces Negociaciones

En 1971, el Inuit Tapirisat de Canadá (ITC) fue formado para reivindicar los reclamos de tierra en los NWT. Desde el principio, los líderes *inuit* habían dejado en claro que las negociaciones de reclamos de tierra sólo se seguirán en caso de que la última solución consistiera en la creación de un territorio independiente, "aun cuando las negociaciones tuvieran que durar una generación" (Tom Suluk, consejero de los *inuit*). En 1976 el ITC propuso la creación de Nunavut al gobierno canadiense, que no quiso conferir la jurisdicción del territorio a los *inuit*. En 1979 Peter Ittinuar, el primer Miembro del Parlamento *inuk*, se puso de pie en la Cámara de los Comunes y hablo en Inuktitut. Esto representó otro hito en la jornada épica de los *inuit* hacia la libre determinación. En la primavera de 1982, los pueblos de los Territorios del Noroestes votaron dividir los NWT y crear Nunavut. Los *inuit* intentaron enérgicamente conseguir una congelación en el desarrollo industrial durante la negociación, sin mucho éxito. Se avecinaron también otros problemas polémicos, como los poderes de una junta directiva de vida silvestre, los derechos *inuit* fuera de las costas, y las fronteras entre las reclamaciones *dene* e *inuit*, un punto todavía en disputa hoy por los *dene* de Manitoba, en un caso que se lleva adelante en un tribunal federal. Se alcanzó un último acuerdo en septiembre de 1992 –después que se firmó un principio de acuerdo en 1990–, y fue ratificado por los beneficiarios *inuit* en un plebiscito que tuvo lugar en Nov. 3-5 de 1992. Para algunos votantes, la opción se hacía difícil porque el votar por el acuerdo sobre la demanda de tierra significaría que ellos tendrían que intercambiar los derechos aborígenes y títulos de toda la tierra y agua en el Área de Asentamiento Nunavut, sin mencionar los 355,842 kilómetros cuadrados de tierra de propiedad *inuit*. Al final, aún 84.7 por ciento de los votantes endosó el acuerdo.

"Fue el voto *inuit* que hizo el trato. No fueron todos los otros actos simbólicos," dice el más antiguo negociador federal Barry Dewar, que estaba en el Discovery Lodge Hotel en Iqaluit cuando el comité de ratificación anunció los resultados.

El 25 de mayo de 1993, se firmó el último acuerdo en Iqaluit. Era el pago por reclamos más grande de Canadá en lo que se refiere a compensación financiera y tierra: $1.1 mil millones a ser saldados entre 1993 y 2007, y 1.9 millones de kilómetros cuadrados de tierra y agua (equivalentes al tamaño de Alemania), incluyendo los derechos minerales sobre 35,257 kilómetros cuadrados dentro de la porción de tierra de propiedad *inuit*.

En junio de 1993, la *Ley Nunavut* fue promulgada por el Parlamento, concediendo un quinto de la base territorial de Canadá a los *inuit* que así gobier-

nan el territorio o provincia más grande del país. Y el paso final tuvo lugar el 15 de febrero de 1999, cuando se realizó la primera elección para la primera asamblea legislativa Nunavut.

Hacia un Territorio Nunavut

Antes de la división en 1999, los NWT se extendían a través de un tercio de la masa de tierra de Canadá y comprendían dos regiones principales— en el oeste, el valle de Mackenzie, parcialmente forestado, con una población étnicamente mixta de *denes*, *métis*, *inuit*s y pueblos no-aborígenes; y el este casi sin árboles, donde el 85 por ciento de residentes es *inuit*.

Durante el último siglo, los *inuit* desde Chukotka a Groenlandia han sufrido cambios que le llevaron a los pueblos industriales del mundo, por lo menos 5,000 años. Esta ventisca de cambios ha sido muy costosa para los *inuit*, individual y colectivamente, pero algunas de las cualidades que sostuvieron la antigua cultura cazadora, le han permitido a los *inuit* adaptarse notablemente bien a un mundo moderno invasivo e inestable.

Los *inuit* canadienses unidos en una Conferencia Inuit Circumpolar, en ITC, y la organización de mujeres, Pauktuutit. Hay organizaciones regionales y locales de muchos tipos, incluso cooperativas y gobiernos. Bajo este dosel de unidad e identidad, los *inuit* de Canadá han negociado cuatro tratados principales de reclamo de tierra. Si se incluye el nuevo territorio, el acuerdo Nunavut es el más extenso de su tipo en el mundo.

Aquellos *inuit* que repudiaron la presentación original de la demanda de 1976, prevén una revisión de la demanda que incluya la simplicidad, humanidad y sentido común de la sociedad tradicional *inuit*. Dada la inmensa diferencia entre las dos culturas negociadoras, esa meta estaba inevitablemente perdida. Tanto el acuerdo de la demanda como el nuevo territorio crean burocracia, financiación compleja, y complicaciones legales.

El estilo *inuit* tuvo éxito, sin embargo, durante el largo periodo de negociación, tanto en la mesa como fuera de ella. Los negociadores *inuit* mantuvieron una atmósfera de respeto y cortesía, prefiriendo el pragmatismo y la razón a la pose y la retórica. En este clima, la negociación dio paso a la planificación conjunta, particularmente en el campo de gestión medioambiental.

Aunque había numerosas reorganizaciones dentro del campamento *inuit*, un grupo central de líderes y consultores especializados conservó la continuidad de estilo y propósito a lo largo de los años de negociación. El lado gubernamental, tanto federal como territorial, respondió con la misma moneda al enfoque *inuit*.

La mayor parte de la gente es consciente de los problemas que enfrenta Nunavut—entre ellos, recursos diseminados, mercados distantes, clima, y una población mal preparada, todos en un escenario global volátil.

La cita de John Amagoalik expresa las esperanzas que son compartidas tanto por muchos partidarios como Naciones Nativas: "Hubo un tiempo en que muchos de mi generación no estaban orgullosos de nuestra identidad *inuit* y no estaban seguros si querían ser ciudadanos canadienses. Hoy, hay un resurgimiento del orgullo *inuit* y nos hemos convertido en canadienses leales. Aunque nuestro pueblo ha encontrado discriminación racial en el pasado, nosotros queremos la reconciliación y queremos que todos se sientan bienvenidos en nuestra patria. Nuestra paciencia y nuestra buena voluntad para compartir continúan siendo piedras angulares de nuestra sociedad."

Fuentes

Nunavut '99
John Amagoalik, comisionado principal de la Comisión Nunavut de Implementación.
Keith Crowe, el negociador principal,
INCOMINDIOS Newsletter 1, 1999

Por más información vea:

Nunavut-website:
http://www.nunavut.com/nunavut99/english/index.html

El website del Primer Ministro más joven de Canadá, Paul Okalik, *inuit* de 34 años y el primer Primer Ministro de Nunavut:
http://www.inac.gc.ca/pubs/transition/may99/port.html

Recientes acontecimientos políticos en Nunavik (Québec)

Desde que los inuit del "Nouveau-Québec" ártico firmaron el Acuerdo de James Bay y Norte de Québec (JBNQA) sobre su tierra con los gobiernos de Canadá y Québec y las corporaciones industriales para construir los enormes proyectos hidroeléctricos en 1975, han habido esfuerzos de su parte para recuperar, fortalecer y mejorar su situación política, socioeconómica y cultural como una nación aborigen dentro de Canadá y Québec. Aunque el Acuerdo fue aceptado como un marco legal negociado para temas que traten los derechos aborígenes, las demandas de tierra y la propiedad así como la educación, salud y economía, los inuit, representados por la Corporación Makivik , nunca han estado completamente a gusto con las diversas secciones del Acuerdo. En el año 2000, después de un cuarto de siglo de experiencia, se dieron pasos

renovados por la Comisión Nunavik tripartita, cuyos miembros representan a los inuit de Nunavik (Corporación Makivik), Canadá y Québec. La Comisión debe encontrar soluciones para la aspiración de los inuit de establecer una institución política que comprenda su territorio –Nunavik- y garantice una más amplia autonomía y gobierno para esa región.

Desde 1975 se han tomando diversas iniciativas tanto por los inuit como por los gobiernos canadienses para encontrar formas de adecuar el deseo de autonomía aborigen bajo la forma de gobierno regional, un concepto que gradualmente ha sido aceptado como otro nivel de gobierno público dentro del marco confederativo de Canadá. En 1983, la Comisión Parlamentaria Federal sobre Pueblos Aborígenes abrió una amplia discusión sobre esos temas. Sin embargo, el gobierno provincial de Québec insistió en ese momento que los inuit que vivían en Québec hablaran como una sola voz.

Después de un referéndum (1987) y una elección (1989) en Nunavik centrados en temas constitucionales, los inuit negociaron entre ellos y establecieron el Comité Constitucional Nunavik que entró en discusiones con Québec en 1990. Sin embargo, los acontecimientos en torno a la constitución de Canadá de 1982 que Québec no había firmado condujeron al Acuerdo de Charlottetown, derrotado en 1992 y así se interrumpieron las conversaciones entre Nunavik y Québec. Sin embargo, se retomaron los contactos entre 1994 y 1995. Pero el referéndum de Québec sobre la soberanía a fines de 1995 y los cambios en la dirección inuit causaron una suspensión de estas discusiones.

En septiembre de 1997, se abrieron otra vez las líneas de comunicación entre la Corporación Makivik y el gobierno de Québec para centrarse en la creación de un gobierno público al norte del paralelo 55 en Québec (el límite sur de Nunavik es también conocido como la Región Kativik en el JBNQA). Tanto la Corporación Makivik como el Secretariado de Québec para Asuntos Indígenas (Secrétariat des affaires autochtones [SAA]) recibieron el mandato de explorar y establecer un marco institucional para negociar una "autonomía pública" para la Región de Nunavik. Los parámetros fueron discutidos en 1998 y 1999. El 5 de noviembre de 1999, se firmó el Acuerdo Político de Nunavik por el Partido Nunavik (Corporación Makivik), el Gobierno de Québec y el Gobierno de Canadá (el último en lo que respecta a los temas que caen dentro de la jurisdicción federal).

Este acuerdo es considerado como un importante paso hacia la creación de un gobierno público para los residentes de Nunavik dentro del marco político de Québec y Canadá. El Acuerdo estableció la Comisión Nunavik, tripartita, que comenzó sus deliberaciones públicas y cerradas en diciembre de 1999 programando reuniones y audiencias en todas las comunidades de

Nunavik y ámbitos de gobierno. Se esperan las propuestas concretas de la Comisión Nunavik para fines del año 2000.

Hay ocho miembros en la comisión: los dos co-presidentes que representan a Québec y Nunavik (ambos hombres); dos miembros que representan a Nunavik (un hombre, una mujer), dos de Québec (un hombre, una mujer), y dos de Canadá (hombres). Tres de ellos son inuit y cinco francófonos (de Québec; un abogado, un administrador y tres académicos). Además de la Corporación Makivik otras instituciones regionales existentes en Nunavik – Gobierno Regional de Kativik, Junta Escolar de Kativik, Junta Regional de Nunavik para la Salud y Servicios Sociales y el Consejo de Desarrollo Regional de Kativik- están representadas a través del Partido Nunavik (Acuerdo Político, Sección 2.2). Los miembros, el mandato, y la financiación fueron establecidos por consenso. Cada parte cubre sus propias expensas (viajes, etc.). Además, los gobiernos federal y provincial han realizado contribuciones financieras para otras expensas – en total $ 770.000, una suma considerable para tal empresa.

El Acuerdo Político establece las tareas exactas que la Comisión tiene que realizar bajo el mandato general: "....examinar la creación de una forma de gobierno que, dentro de la jurisdicción de Québec y Canadá, tome en cuenta las realidades árticas de Nunavik, que responderán a las necesidades, deseos y aspiraciones de los inuit y otros residentes que viven en este territorio, que tendrán recursos y poderes apropiados de autonomía para [sic] Nunavik" (Preámbulo, segundo párrafo). Además, las tareas están confinadas a "...desarrollar un cronograma, un plan de acción y recomendaciones para la estructura, operaciones y poderes de un gobierno en Nunavik" (Sección 1.1), y que estos puntos "...estarán prontos para su implementación en términos concretos" (Sección 1.2). También se deja en claro que "[l]as recomendaciones presentadas por la Comisión estarán sujetas al consenso de todos sus miembros" (Sección 3.3). Estas recomendaciones son presentadas al Gobierno de Québec y cubrirán los siguientes temas relacionados con el gobierno público en Nunavik" (Sección 4.1.a-j):

- "poderes jurisdicciones, responsabilidades y competencias";
- "proceso electoral"
- "selección del Líder y de los miembros electos" y "rol del ejecutivo";
- "diseño administrativo inicial",
- "cronograma para la consolidación bajo un Gobierno de Nunavik";
- "relaciones entre los gobiernos" dentro del contexto político;
- "financiación";

- "medidas para promover y aumentar la cultura inuit en Nunavik, incluyendo el uso del inuktituk en el Gobierno de Nunavik";
- medidas para cubrir posiciones gubernamentales con residentes de Nunavik en la mayor cantidad posible;
- creación del gobierno "para incluir una votación entre los residentes de Nunavik antes de la implementación".

Esta gama de recomendaciones está regulada y claramente limitada por los principios superiores identificados en la Sección 5. Aquí presentamos una selección de algunos puntos.

- "el gobierno de Nunavik será no-étnico por naturaleza",
- el gobierno "estará bajo la jurisdicción de la Asamblea Nacional de Québec",
- los derechos obtenidos por el JBNQA no serán modificados y cualquier enmienda de ellos sólo podrá realizarse por consenso;
- *el Gobierno de Nunavik no perjudicará los derechos de los* cree *y los* naskapis *según el JBNQA;*
- la forma gubernamental propuesta tendrá que ser acorde a las realidades legales y económicas existentes. Sin embargo, "también podrá ser de naturaleza innovadora". No obstante, los derechos y las responsabilidades de los gobiernos de Québec y Canadá no serán recortados;
- "el establecimiento de un Gobierno de Nunavik respetará el carácter ártico de Nunavik y su estrecha relación entre los inuit de Nunavik y de Nunavut".

Finalmente, en la Sección 8, una cláusula de excepción establece que: "Este Acuerdo no será interpretado como un tratado o como un acuerdo de demandas de tierra dentro del significado de la sección 35 de la Ley Constitucional de 1982".

Por razones obvias, el funcionamiento y el impacto de la Comisión de Nunavik no pueden ser evaluados en este momento. Sin embargo, el contenido del Acuerdo Político permite alguna evaluación de la situación y la identificación de algunas áreas que podrían ser obstáculos en el camino hacia la autonomía de la región de Nunavik. En suma, estos puntos conciernen a dificultades relacionadas con las secciones en el JBNQA que tocan el desarrollo económico del usufructo de la flora y fauna (caza, pesca y trampería) y, en general, sobre el control del desarrollo regional. Además, aunque se incluyen asuntos de cultura y lengua inuit en los principios fundamentales, no está

claro cuán segura será su situación legal, es decir, el inuktituk como una lengua oficial. Y finalmente, los inuit perciben a Nunavik como su territorio, es decir, área de asentamiento y uso de la tierra, incluyendo áreas terrestres y marítimas independientemente de cualquier límite político introducido por Canadá o Québec. Por lo tanto, los temas jurisdiccionales que siempre se relacionan con el territorio tendrán que ser tomados en consideración en el trazado de los límites, es decir, entre Québec y el recientemente establecido Territorio Nunavut (jurisdicciones federales, provinciales y territoriales) y más específicamente entre las tierras y las aguas inuit, es decir entre Nunavik y Nunavut y sus respectivos gobiernos. ¡Los actuales límites establecidos en la marca de la marea baja no tienen mucha lógica!

Fuentes

Comunicados de prensa emitidos conjuntamente por la Corporación Makivik, los gobiernos de Canadá y Québec, noviembre 29, 1999.

Acuerdo Político entre el partido Nunavik, el gobierno de Québec y el gobierno federal para el examen de una forma de gobierno en Nunavik mediante el establecimiento de una Comisión Nunavik. Firmado en Dorsal, noviembre 4, 1999 12 p.

GROENLANDIA

Ajuste estructural

Durante 10 años, la economía groenlandesa no ha tenido ningún crecimiento, un hecho que pone en peligro el deseo groenlandés de desarrollar una economía autocentranda con el propósito a largo plazo de convertirse en más independiente de Dinamarca. Todavía sucede que la expensas públicas de Groenlandia dependen de grandes subsidios anuales de Dinamarca. Estos hechos económicos son factores importantes tras la creciente demanda de cambios fundamentales en la economía groenlandesa. Los cambios son inspirados por la tendencia mundial de programas de ajustes estructurales, pero que los partidos gobernantes en Groenlandia tratan de acomodar a las realidades locales. Desde los tiempos coloniales, la economía groenlandesa ha sido dominada por corporaciones públicas. Después de que fue introducida la Autonomía en 1979, la compañía comercial colonial se ha diversificado en una serie de compañías, todavía controladas públicamente pero ahora en la forma de compañías accionarias.

Para impulsar la economía, incluso el partido socialista, Inuit Ataqatiit, que constituye el gobierno junto con el partido socialdemócrata Siumut, ha

sugerido cambios que significarán un fin para algunos de los beneficios económicos de la gente que vive en las aldeas y distritos lejanos. Los cambios son también sugeridos para lograr más competencia en sectores que hasta la fecha han sido monopolizados por compañías de propiedad del Gobierno Autónomo. Entonces, se convierten de interés el transporte, el comercio al por menor, las telecomunicaciones y el procesamiento de la pesca. Aunque los groenlandeses parecen divergir de muchos otros países y regiones autónomas en que los partidos gobernantes tratan de desafiar ciegamente los programas liberales de ajuste estructural como son sugeridos, por ejemplo, por la OECD, intentando incorporar factores locales sociales y demográficos.

Elecciones parlamentarias

La elección del parlamento Autónomo a comienzos de 1999 dio una nueva fuerza al partido de izquierda Inuit Ataqatigiit que, junto con el partido Siumut, constituyeron un nuevo gobierno de coalición. El Presidente del Inuit Ataqatigiit, Joseph Moezfedlt, fue el ganador de las elecciones con el número más elevado de votos personales. En determinada medida las elecciones podrían ser consideradas como una protesta contra los viejos partidos donde el otro ganador fue un movimiento de protesta que ganó más del 12% de los votos (comparado con Ataqatigiit 11% y Siumut 35%). Cuatro miembros gubernamentales no fueron reelectos y 14 de los 31 escaños del parlamento tuvieron nuevos integrantes.

La elección fue también interesante porque fue la primera vez que Groenlandia fue constituida en un sólo distrito electoral. Cuando se estableció la Autonomía, las áreas lejanas tenían su propio sistema electoral que las favorecía. Actualmente, cuatro (de cinco) distritos remotos no están representados en el nuevo parlamento mientras que la capital Nuuk tiene ahora 14 escaños. El hacer de Groenlandia un sólo distrito electoral desfavorece las áreas más remotas y menos pobladas, pero fortalece el proceso de hacer a Groenlandia una nación. Esto ha sido un proceso gradual que ha tenido lugar durante años y ahora culmina constituyendo a Groenlandia en una entidad unificada en la relación entre el parlamento y la población. El mismo proceso que se da ,se puede ver, por ejemplo, en un sistema de precios unificados y liberalizado de más y más sectores del sector pesquero. El Ministro de Finanzas, Joseph Motzfeldt caracteriza el proceso de esta manera:

> *"Hasta ahora ha habido una tendencia en el parlamento a observar el desarrollo en nuestro país. Nosotros hemos tomado demasiada responsabilidad por incluso asuntos muy locales. El acto de la nueva*

elección que ha unificado a Groenlandia en un distrito electoral motivará ciertamente a los políticos nacionales a percibir los temas en una perspectiva más amplia en vez de promover políticas parlamentarias en la votación del parlamento. Este cambio de enfoque es también una condición para que los políticos de nuestro país pongan más énfasis en el futuro en los factores nacionales, generales y estructurales, eso es, legislación en interés de todos y asegurar espacio para iniciativas y necesidades básicas en asuntos de salud, y asegurará un apropiado desarrollo de la infraestructura". [1]

Aunque este cambio electoral debería ser una ventaja para los partidos políticos, ha recibido algunas críticas por la falta de control y equilibrio entre los políticos de la capital Nuuk y las diversas ramas partidarias a lo largo de la costa oeste. Bajo la dirección de los mismos líderes políticos que gobernaron a Groenlandia desde la Autonomía, que fue introducida hace veinte años, se oyen voces para que una generación más joven tome la dirección. El establecimiento de una parlamentaria femenina apunta en la misma dirección.

Comisión de Autonomía

A fines de 1999, el Primer Ministro de Groenlandia, Jonathan Motzfeldt, presentó al público y al gobierno danés una comisión de gobierno autónomo. Los miembros de la comisión son todos prominentes políticos groenlandeses. Los términos de referencia de la comisión indican fuertemente un deseo groenlandés de ser más independiente de Dinamarca que lo que hace posible la estructura de la Autonomía:

"La comisión preparará un informe sobre las posibilidades de desarrollar aun más la autonomía de Groenlandia dentro de los marcos del reino basado en los principios de conformidad entre los derechos y las responsabilidades" [2]

Después de su primera reunión la comisión escribió:

"Es el objetivo, dentro del reino, de lograr la autonomía en el máximo grado posible. La comisión es de la opinión que todas las áreas de responsabilidad que puedan ser transferidas a la responsabilidad groenlandesa podrían investigarse cuando esto pueda tener lugar, y debería investigarse cómo las responsabilidades ya transferidas pueden ser mejor administradas. En lo que concierne a asuntos que de

acuerdo a la Constitución (danesa) son la responsabilidad del estado, la comisión investigará cómo Groenlandia puede acceder al más elevado grado de influencia". [3]

Entre estas áreas que la comisión examinará se encuentra la futura situación de Groenlandia en relación con Dinamarca, la política exterior y de seguridad y las opciones económicas de una Groenlandia más autónoma. Es de especial interés la dependencia del bloque de subsidios anuales de Dinamarca que constituye más del 50% de las expensas públicas. Se espera un informe de la Comisión en un plazo de 2 años.

Cuando el Gobierno Autónomo fue introducido en 1979, pocas personas habían anticipado que Groenlandia desarrollaría un sistema de autogobierno de facto dentro de un período de tiempo tan corto. Sin embargo, ésto también destacó las limitaciones del parlamento groenlandés y el gobierno para tomar decisiones autónomas sin obtener permiso de las autoridades danesas. Pudiera ser que las autoridades danesas no intervinieron en la mayoría de los asuntos, pero para desarrollar una competencia y responsabilidad de los groenlandeses en asuntos que tienen como objetivo lograr un economía controlada localmente y un futuro cultural, el actual sistema puede ser considerado por muchos como un obstáculo.

Un tema de especial interés es la defensa y la seguridad. A comienzos de los años 50, los habitantes más septentrionales de Groenlandia, los inughuit fueron, sin suconsentimiento, reasentados sin compensación, cuando los EE.UU. establecieron una gran base aérea militar en Thule. A pesar de que la política oficial danesa no permite armas nucleares en territorios daneses (y groenlandeses), la fuerza aérea americana usó la base de Thule para sus aviones portadores de armas nucleares – con el informado consentimiento del gobierno danés. En el transcurso de los años, varios ministros daneses han mentido al público sobre este tema, un hecho que se suma a la insatisfacción del gobierno Autónomo de Groenlandia y el parlamento por tener muy poca influencia sobre decisiones en relación al área anexada por el ejército a comienzos de los 50. Entonces, aunque es la única puerta de entrada al Norte de Groenlandia, el tráfico regular es controlado por las autoridades militares, lo cual, por ejemplo, hace que el turismo en la región sea imposible.

Además, desde que los inughuit han demandado la devolución de parte de sus territorios de caza perdidos, con poca comprensión de parte de las autoridades danesas, esto se ha sumado al deseo del parlamento y gobierno de Groenlandia para ser capaces de actuar en asuntos de política exterior, defensa y seguridad sin interferencias del gobierno danés. 1999 fue también el año

en que la Suprema Corte decidió que los inughuit fueron reasentados sin su pleno ni informado consentimiento en 1953 cuando fueron forzados a trasladarse de su antiguo asentamiento Uummanaq a Qaanaaq a causa del establecimiento de la Base de la Fuerza Aérea Américana en Thule. Al ser reasentados, los cazadores perdieron uno de sus más productivos territorios de caza. La Suprema Corte admitió que la reubicación tuvo lugar sin una compensación apropiada por la expropiación de sus territorios de caza, pero la compensación colectiva e individual ofrecida fue muy magra comparada con las demandas presentadas por los cazadores. Además, la sentencia de la corte no posibilitó que los cazadores retornaran a su antiguo asentamiento y recuperaran sus territorios de caza. El caso de la Corte fue planteado por los cazadores contra el estado danés e insatisfechos con la sentencia de la corte, más de 600 descendientes de los inughuit reasentados han apelado la sentencia de la Corte Suprema.

El debate de la lengua

El groenlandés es el principal idioma del país. Es la lengua vernácula para la gran mayoría de los groenlandeses, que constituyen el 87% de la población total. En contraste, sólo muy pocas del 13% de las personas danesas que viven en Groenlandia hablan esta lengua. El danés es enseñado en las escuelas, muchos maestros sólo hablan danés y el lenguaje administrativo en es gran medida también el danés. Al pasar la escuela primaria, la educación superior frecuentemente es en danés, ya sea en Groenlandia o en Dinamarca.

Cuando se estableció el Gobierno Autónomo en 1979, una ambición central de los políticos groenlandeses era fortalecer el idioma groenlandés. En muchos aspectos, estos esfuerzos han sido realizados, por lo menos en el sentido de que muchos groenlandeses ahora ocupan muchas posiciones que antes eran ocupadas por daneses antes del Gobierno Autónomo. Esto también está reflejado en las estadísticas que revelan que el porcentaje de daneses en al población ha disminuido del 20% al 13% al día de hoy.

No obstante, hoy la mayoría de los groenlandeses sienten que el proceso no avanza. El índice de desempleo continúa siendo sumamente elevado y el uso indiscriminado del idioma danés es considerado por muchos como un obstáculo para un desarrollo autocentrado. En 1999 hubo un caluroso debate sobre el uso del idioma danés en al Parlamento del Gobierno Autónomo. Hay un solo dano-parlante en el parlamento y se han elevado fuertes expresiones sobre asumir la lengua groenlandesa como la única lengua para los debates parlamentarios. Cuando un miembro parlamentario sugirió al parlamento una resolución para hacer al idioma groenlandés el único idioma a ser usado en

los debates del parlamento, no fue adoptado, pero esto no será el fin del debate.

La situación en el parlamento ha sido frecuentemente confusa con el uso general del idioma danés en la sociedad. La situación es compleja. Hay groenlandeses que no hablan su lengua materna fluidamente, sí es que lo hacen. Pero también existe el hecho de que para acceder a cualquier educación superior se necesita un profundo conocimiento del danés. Por lo tanto, para muchos, el debate general sobre la situación de la lengua groenlandesa es un asunto de crear un mejor sistema educacional y mejorar la enseñanza en groenlandés para todos, sin olvidar a la minoría danesa.

Problemas sociales

Fuera de Groenlandia, las noticias sobre su pueblo han sido tan frecuentemente focalizadas en los problemas sociales. Groenlandia tiene uno de los índices de suicidios más elevados del mundo, el abuso del alcohol prolifera y la violación parece ser extendida. Sin embargo, el mundo externo olvida reflexionar sobre tendencias que contravienen lo que usualmente son consideradas como epitomizantes de la actual situación. Es en esta perspectiva, que un incidente que tuvo lugar en la aldea de Kuummiut, en Groenlandia oriental en el otoño, merece ser mencionado. En esta aldea de 400 personas, 60 niños realizaron una protesta pública contra el abuso del alcohol de sus padres. Comenzando en un punto de la pequeña aldea, la manifestación fue al almacén local donde muchos de los adultos se reunían todos los días a beber. Incluso en esta pequeña aldea el alcoholismo es tan severa que pequeñas instituciones han sido abiertas para que los niños se queden durante el fin de semana cuando no pueden permanecer en sus hogares a causa de la severa consumición de alcohol de sus padres.

El establecimiento de un partido de mujeres, Arnat partiaat, en noviembre podría ser visto a la luz de los problemas sociales o como respuesta a la pasividad de los partidos políticos existentes para tratar con asuntos tan serios. 6 de los 31 miembros del Parlamento Autónomo son mujeres y 1 de 7 miembros del gobierno es una mujer y la creación del nuevo partido puede también reflejar tales hechos. Un objetivo fundamental del partido de las mujeres es restaurar la integridad de las familias y centrarse más en resolver problemas sociales, fundamentalmente de la gente joven.

Notas

1 Traducido de Politica, 32,1:7. Aarhus 2000.

2 Traducido de los términos de referencia de la comisión.

3 Traducido de un comunicado de prensa del 19 de abril, 2000.

RUSIA

Legislación

En mayo de 1999, fue adoptada después de una discusión de 7 años la ley federal "Sobre garantías de los derechos de los pueblos indígenas en la Federación Rusa". La adopción de esta ley es el primer paso adelante hacia el reconocimiento de los derechos de los pueblos indígenas de Rusia. Esta ley brinda el inventario de los derechos de los pueblos indígenas para la protección de su hábitat y medio ambiente, estilo de vida tradicional y economías, del servicio militar alternativo, la preservación y desarrollo de la cultura tradicional y la lengua. Reconoce el derecho de las comunidades indígenas a establecer "los organismos territoriales de autonomía pública", el derecho "sobre la base voluntaria de organizar las comunidades de pueblos indígenas... para el desarrollo social, económico y cultural, protección del hábitat tradicional y el medio ambiente, estilo de vida, economía y actividades aborígenes". La ley es de carácter declarativo, no comprende los requisitos para que las autoridades asistan a las comunidades indígenas en la realización de sus derechos. No se contempla ninguna compensación por las tierras utilizadas por el estado o las compañías privadas en áreas de tierra de uso tradicional y no prevé financiación gubernamental para el sistema de autonomía, desarrollo cultural, educación y protección sanitaria para los pueblos indígenas. Por lo tanto, existe una urgente necesidad de medidas que aseguren la implementación del sistema de leyes sobre la protección de los derechos de los pueblos indígenas para el uso tradicional de la tierra, el desarrollo de la autonomía, la preservación de las culturas indígenas y la mejora de su salud.

Actividades de la Asociación Rusa de los Pueblos Indígenas del Norte (RAIPON)

La tendencia básica en las actividades de RAIPON en 1999 es una creciente colaboración estrecha con 30 organizaciones no-gubernamentales, es decir, asociaciones regionales de pueblos indígenas del norte de Rusia. Estas actividades incluyen: la organización educacional y conferencias de información y seminarios, programas conjuntos con organizaciones extranjeras de pueblos indígenas, cooperación con ONGs ambientales, la juventud, y agencias gubernamentales en la esfera de la protección de los derechos de los pueblos indígenas. RAIPON ha organizado y compuesto una mesa redonda con repre-

sentantes del Parlamento Saami en Moscú, la conferencia internacional "Problemas del uso tradicional de la tierra de los pueblos indígenas del Norte", un seminario sobre pueblos indígenas y el medio ambiente en Sakhalin que se centró en las consecuencias de la explotación de petróleo y gas. En junio de 1999, fue celebrado el Congreso de la Juventud Indígena y en esa ocasión se estableció el Consejo de la Juventud Indígena. En septiembre de 1999 se celebró la 3ª Cumbre de los Líderes del Ártico en Moscú. En diciembre de 1999, con apoyo financiero de UNEP/GRID-Arendal y con la participación del grupo nacional de IWGIA de Dinamarca se imprimió la primera edición de la nueva revista de RAIPON titulada "El Mundo de los Pueblos Indígenas – el Ártico Vivo".

La situación actual de los pueblos indígenas en el Norte

La 3ª Cumbre de los Líderes del Ártico que fue celebrada en septiembre en Moscú estuvo dedicada al tema de la salud y el medio ambiente de los pueblos indígenas del Ártico. Se prestó especial atención a los pueblos indígenas del Norte de Rusia, quienes están ahora en una situación muy crítica.

Especialmente, los informes de la Sra. T. Stukolova, Ministra Adjunta de Salud Pública de la Federación Rusa y el Vicepresidente de RAIPON Dr. L. Abryutina han sido de particular interés y preocupación. Las cifras estadísticas citadas por estos autores confirmaron el estado crítico de los pueblos indígenas del Norte de Rusia, que se encuentran al borde de la degradación psicológica y la extinción física.

De acuerdo a Larisa Abryutina, la principal razón de la crisis enfrentada por los pueblos indígenas es el abrumador patrimonio estatal y la política de paternalismo del pasado, así como la exclusión de los niños de las familias para su educación en escuelas de internado. Estas intervenciones transformaron a los indígenas en personalidades incapaces de valerse por sí mismas. Resultó en el déficit de la actividad psíquica, lo cual es a su vez la causa de su salud deteriorada.

Las estadísticas muestran un incremento de la tuberculosis. La mortalidad debida a esta enfermedad es tan elevada como 40 casos cada 100 personas en la región autónoma de Khanti-Mansiisky. Una gran parte de la población indígena del Norte sufre de adición alcohólica. Y existe un grupo de alto riesgo de suicidio. El índice de mortalidad causado por el suicidio en Chukotka alcanza al 83,8 por 100.000, mientras que el índice para toda Rusia es de 30 por 100.000.

La expectativa de vida promedio entre los pueblos indígenas del Norte es 10-15 años menor que el promedio ruso, y en algunas regiones es, entre los hombres, tan bajo como de 41-42 años.

La población de la mayoría de los pueblos indígenas del Norte ruso está disminuyendo. Por ejemplo, el pueblo itelmen de Kamchatka ha tenido un índice de natalidad de 2,1 por mil durante la última década. Según las cifras del Instituto de Pueblos Indígenas del Norte (Rama Siberiana de la Academia de Ciencias de Rusia) de 1998, el índice de mortalidad entre los pueblos saami, nganasan, negidal, aleut, enets, eskimo, kumandins y shor ha sido superior al índice de natalidad. Comparado con 1990, el índice de natalidad en los pueblos indígenas del Norte ha disminuido en general en un 34% mientras que la mortalidad ha aumentado en un 42%.

Durante el mismo período, la cantidad de personas empleadas entre los pueblos indígenas del Norte disminuyó en el sector agrícola en un 45%, en la industria en un 43%, en la construcción en un 68% y en el comercio, comunicación y transporte en un 32%. En muchos asentamientos indígenas que dependen de las economías tradicionales, el desempleo excede al 60%. Por ejemplo, en pequeñas aldeas de la región autónoma de Koryak, predominantemente habitada por el pueblo koryak, el desempleo excede al 85%.

El desempleo y el estado crítico de salud y de reproducción de los pueblos indígenas están conectados con la crisis social y económica general del país y la degradación del entorno natural provocada por la explotación incontrolada de los recursos naturales. Se necesitan urgentemente nuevas formas de desarrollo para los pueblos indígenas de Rusia dentro de la legislación existente. Se pueden destacar dos enfoques prometedores en esta conexión: entre 1997 y 1999 se realizó el trabajo fundamental para la creación del área etno-ecológica en Kamchatka. Y se están realizando intentos de establecer reservas de la biosfera con uso tradicional de la tierra por parte de los pueblos indígenas en la región de Khanti-Mansiisky y en Yakutia.

SÁPMI

Suecia

Prospección mineral en la Tierra de los Lapones

La compañía canadiense BNP World Exploration tiene un permiso para explorar en busca de minerales en un área al este del parque nacional Sarek en Suecia. Los criadores de renos, habitantes locales y activistas ecológicos es-

tán angustiados. «Yo pienso que es absolutamente equivocado,» dice Lennart Läntha que vive en el pequeño pueblo montañés de Aktse. La autoridad gubernamental Bergsstaten ha concedido un permiso para explorar en busca de zinc, plomo, cobre, plata, y oro al este de Sarek

El permiso incluye un área de 11,585 ha. El área está en terreno montañoso ininterrumpido, y contiene varias reservas: La reserva forestal de Sitoätno, la reserva natural de Harrejávri y la reserva forestal de Tjaktavárri. El gobierno del condado de Norrbotten desea convertirlas a todas en una sola reserva natural llamada Ultevis. El gobierno del condado describe el área como única.

El área de prospección incluye también a Guorbak, uno de los lugares con poblaciones de reno más grandes en Suecia. Aquí se encuentran pasturas, rutas de migración, mataderos e infraestructura.

Alrededor de Guorbak, hay también antiguas moradas de *lapones* de gran valor histórico. «Un mina aquí serían una catástrofe,» dice Bertil Kielatis, portavoz de la comunidad *sirka* de *lapones*.

La Ley de Minerales permite a las compañías explorar en busca de minerales casi en cualquier parte. Solo los parques nacionales y las reservas naturales están completamente protegidas. Otros intereses están sujetos a prueba. Sólo cuando la minería se vuelve una actividad, se contrasta con esos otros intereses. Sin embargo, BNP World Exploration no tiene el permiso para llevar sus máquinas a lo que se denomina la última tierra virgen de Europa. Los tribunales tendrán que decidir si el permiso de Bergsstaten fue concedido legalmente.

Adopte un Reno

Los *lapones* tienen un derecho consuetudinario de permitir sus renos pastar en los bosques durante la estación invernal sin necesidad de compensar a los dueños del bosque. Este derecho se legisló en 1886 y es esencial para que los *lapones* continúen viviendo de la cría de renos ya que estos no pueden sobrevivir en las regiones de la montaña más alta, sin árboles, en invierno. Este derecho ha sido cuestionado por particulares, dueños de bosques, alrededor de las regiones montañesas suecas de Jämtland, Härjedalen y Dalarna. Ellos alegan que los *lapones* no han vivido el tiempo suficiente en esta área para exigir el derecho consuetudinario de pastura. Pero la cría de renos tuvo lugar en ese lugar, al menos, unos cuantos siglos.Los grupos de particulares dueños de los bosques han llevado a las comunidades *laponas* a los tribunales.

Dado que no hay documentación escrita que pueda demostrar uso prolongado de la tierra, los *lapones* corren el riesgo de perder su derecho consuetudinario.

Los *lapones* no pueden solventar financieramente estos procesos legales: sólo la pérdida del primer proceso les ha costado (en costos de tribunal) £1.000.000. Todo el dinero recolectado se emplea en pagar por los costos legales de las comunidades *laponas* en el juicio en torno a la ley consuetudinaria en Jämtland/Härjedalen (Ver IWGIA los Asuntos Indígenas Nº2, p:20 1997).

La fundación espera conseguir alrededor de 5 millones de coronas suecas con la campaña "Adopte un Reno" y salvar la industria del reno en Jämtland y Härjedalen. Aquéllos que deseen adoptar un reno puede escoger entre pagar 100, 500 o 10.000 coronas suecas.

El diploma de adopción es creado por el conocido artista *lapón* Lars Pirak.

El dinero puede ser pagado a la cuenta del Swedish Bank: 5243-4933 o al giro postal sueco:1958561-1 dirección "Adopte un reno" C/O Kjersten Valkeapää, Casilla de Correos 46.S-84095 Funäsdalen, Suecia.

Convención OIT 169

El jueves 6 de Mayo de 1999 tuvo lugar un encuentro de información sobre la convención OIT en Östersund.

Un evento que había atraído a muchos oyentes, así como representantes de casi todas las comunidades nativas en el área.

Muchos granjeros suecos y dueños del bosque estaban fuertemente en contra de la ratificación de OIT 169, reflejando la actitud general en Suecia hacia el tema. Tomará 5 años más con diversas audiencias antes de que Suecia decida si ratificará la OIT 169.La razón para la vacilación de Suecia a la ratificación es el artículo 14, que entre otros dice: "los gobiernos darán los pasos necesarios para identificar las tierras que los pueblos involucrados tradicionalmente ocupan, y para garantizar protección eficaz de sus derechos de propiedad y posesión."

Lars Anders Baer, Presidente de Samiid Riikkasearvi /SSR (Sociedad Nacional de Lapones suecos) y Jörgen Bohlin, Abogado para la Sociedad dicen al periódico *lapón* Samefolket:

"Suecia tiene una 'tarjeta de información' referida a la política nacional en cuestiones nativas.

La investigación oficial acerca de la convención de OIT ha mostrado que la legislación y falta de acción del gobierno han puesto a Suecia en una situa-

ción de retraso en la legislación sobre población nativa no alcanzando una medida aceptable ni consiguiendo una buena nota a escala internacional."

El Parlamento europeo apoya la Cría Nativa del Reno

Cuando Suecia se convirtió en un miembro de la Unión Europea esto trajo varias consecuencias para la cría del reno. Entre otras cosas se prohibieron los mataderos móviles. Esto significó que alguno de los *lapones* tenían que transportar los renos varios cientos de kilómetros hasta los mataderos estacionarios. Este problema parece haber sido resuelto cuando el Parlamento Europeo en Marzo de 1999 aceptó una moción de resolución adoptando lo siguiente: "Investigar las posibilidades de usar mataderos móviles para evitar transporte innecesario de ganado y mejorar la ganancia." Y también para crear un "apoyo especial para la cría del reno en forma de inversiones y otros medios para refinar los productos que se producen localmente para crear un nivel de empleo más alto."

Lavvu en el Medio de Estocolmo

Un grupo de *lapones* suecos levantó un lavvu (tienda tradicional de *lapones*) el domingo 16 de mayo de 2000, en el medio de Estocolmo. "Nosotros hemos aprendido del estado sueco que se puede monopolizar tierra sin respeto por el dueño. Es por eso que nosotros monopolizamos un pedazo de tierra aquí en Estocolmo, durante una semana", dijo Olof T. Johansson al periódico *lapón* Assu. Todos esta semana los *lapones* vivieron en el lavvu, informando a paseantes y oyentes sobre los atropellos del gobierno sueco contra los pueblos indígenas del país, los *lapones*.

200 Aniversario de Læstadius

El 8 de Enero de 2000 tuvo lugar el 200 aniversario del sacerdote *lapón* sueco Lars Levi Læstadius (1800-1861). Læstadius fue el iniciador de un resurgimiento del movimiento *lapón* que se llamó Læstadianismo y que fue muy importante para muchos *lapones*. El Læstadianismo no sólo era un movimiento religioso sino también una reacción etno-política contra la opresión y explotación.

El movimiento dio a muchos *lapones* esperanza en el futuro y los movilizó en la lucha por la supervivencia social y cultural. Las relaciones entre los *lapones* y el estado nacional se construyeron sobre la base de una relación asimétrica en favor de los valores suecos.

El Læstadianismo promovió valores *lapones* y ofreció una manera de ser *lapón* y al mismo tiempo seguir siendo un miembro igual que otros de la

sociedad. El Læstadianismo se extendió a Noruega y Finlandia así como a los Estados Unidos. A lo largo del año 2000 se recordará a Læstadius en diferentes lugares de Suecia.Es, sin embargo, importante enfatizar que no todos los *lapones* eran Læstadianistas y esos otros *lapones* encontraron diferentes maneras de reaccionar contra la opresión y el etnocidio.

Noruega

La Asamblea General de Asociación de Lapones noruegos
La Asociación Noruega de Lapones (NSR) tuvo su asamblea general del 17 al 20 de junio de 1999 en Karasjok. La NSR estaba de acuerdo en una resolución acerca del área de práctica y tiro del ejército en Hálkavárre, municipalidad de Porsanger.El área se ha expandido constantemente desde 1964. El último proyecto es un ejercicios de bombardeo con aviones. Ha habido negociaciones entre el ejército y los criadores de reno de los distritos, pero sin alcanzar hasta ahora un acuerdo.

Parece que serán los tribunales quienes deberán solucionar el caso. La NSR está preocupada porque el área de tiro de Hálkávárre continuará reduciendo las áreas de la cría del reno, lo cual significa que los rebaños de renos de Finnmark se verán severamente afectados. La NSR exige que el ejército detenga la expansión de Hálkavárre.

Ellos también estuvieron de acuerdo en una resolución sobre el uso de los nombres *lapones* de los lugares, importante para fortalecer idioma y cultura *lapones*. Con la ley de nombre de lugares la NSR asume que los nombres *lapones* de lugares tendrán igual tratamiento que los noruegos en lo referente a las señales públicas. El idioma también estaba en la mira de una resolución sobre educación que entre otras cosas estableció: «Aparte de la educación especialmente relacionada a los *lapones*, es muy importante trabajar para un ingreso más fuerte de los elementos *lapones* dentro de la escuela elemental." La reunión general pidió a las municipalidades de Alta y Kautokeina afianzar los derechos de pesca de los pueblos locales en el río Alta. Organizaciones privadas han estado pescando ilegalmente en detrimento de los derechos de los pescadores locales.

Con la excepción de pocas municipalidades en Finnmark, los *lapones* tienen pocas posibilidades de tener influencia en las decisiones de la mayoría. Se ha acordado que debe pedirse a las municipalidades en Finnmark que sean más conscientes de las cuestiones *laponas*.

Los Renos Murieron de Hambre

La administración de criadores de reno en Finnmark oriental ha encontrado 80 renos que murieron de hambre. Los renos pertenecieron a una manada y murieron de hambre durante el pastoreo de invierno, dijo Mikkel Ailo Gaup de la administración de criadores de reno de Finnmark oriental.

La lluvia en noviembre hizo que grandes áreas fueran inaccesibles para los renos porque las pasturas estaban cubiertas de hielo.

Rusia

El 1 y 2 de diciembre de 1999, tuvo lugar en Lovezero una conferencia científica organizada por la Organización Pública Lapona de la región de Murmansk (OOSMO). El tema de la conferencia era "El Idioma *lapón* del Año 2000."

Se hizo evidente durante la conferencia que las posibilidades de enseñanza en *lapón* son muy buenas en los primeros años de escuela. Existen los libros de texto y la literatura necesaria. Aún más, hay un programa de radio de una hora, una vez a la semana, en *lapón*. Desgraciadamente estas iniciativas no son suficientes para fortalecer el idioma *lapón*. La motivación para usar el *lapón* es muy débil. La generación joven sólo tiene un conocimiento superficial del idioma. La conferencia recomienda que se establezca un centro de investigación del idioma en Lovozero. Deben hacerse reglamentos y leyes, para la preservación y desarrollo del idioma *lapón* y debe clarificarse la posibilidad de traducirlo al alfabeto latino.También se recomienda que se diseñe un programa para la preservación y desarrollo de la colección de grabaciones de audio *laponas* y esa enseñanza en *lapón* debe ser introducida en las escuelas *oblast* donde hay muchos *lapones*. La cultura *lapona* sufrió gran daño durante la colectivización forzada en el período de Stalin. El pueblo se concentró en las ciudades, los hombres salieron como antes con los renos a la tundra mientras que las mujeres y niños se quedaron en las ciudades. Los niños perdieron la oportunidad de socialización de su propia cultura e idioma, y de la vida en la tundra. Para cambiar esta situación la conferencia consultó con la cooperativa "Tundra" para ayudar a hacer posible que los niños se quedaran con sus padres mientras ellos trabajan en la tundra.

Fuentes

Radio Sápmi
Samefolke
Assu
Ságat
OOSMO

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AMÉRICA DEL NORTE

Educación indígena norteamericana: una herramienta entre la tradición y la tecnología moderna

> *"A través de la guía de los ancianos de la tribu, los valores y tradiciones indígenas son enseñados como la llave fundamental para desbloquear la fuerza que moverá a los pueblos indígenas por la senda de su propio desarrollo. Los ancianos han profetizado que las sociedades indígenas pueden ser transformadas mediante el retorno a los valores tradicionales. Esta transformación tendrá entonces un efecto curativo sobre todo nuestro planeta".*
>
> The Four Worlds Development Project of Lethbridge, Alberta – una organización dedicada al bienestar individual y comunitario de los pueblos indígenas

La siguiente reseña sobre la situación general de la educación india de hoy tanto en Canadá como en los Estados Unidos presenta la lógica consecuencia del artículo sobre la fundación de "Nunavut 99". Obviamente, uno de los temas más importantes para los *inuit* del nuevo territorio autónomo es la "Indianización" comprehensiva del sistema educativo de los pueblos indígenas.

En realidad, el "Control Indio de la Educación India" parece ser uno de los requisitos previos para una penetración fluida de las comunidades indígenas en un nuevo milenio autodeterminado. En lo que respecta a los Estados Unidos, por ejemplo, se estima que hay entre 300.000 y 400.000 niños indígenas americanos o de Alaska en edad escolar (Butterfield, 93). En esta cantidad, están presentes más de quinientas tribus o naciones diferentes, aunque por lo general, estas diversas diferencias culturales son frecuentemente ignoradas en el sistema escolar.

No obstante, qué tipo de educación indígena sirve mejor los intereses de una comunidad indígena emergente –y, por supuesto, de cualquier pueblo indígena- no siempre ha contado con un acuerdo unánime. Pero en este momento, existe una visión general de que la educación indígena debería cumplir con el doble propósito de mantener las tradiciones de una rica cultura y arte indígenas vivos (principalmente mediante la transmisión oral) pero, sin

embargo, las enseñanzas de la "América dominante" también tienen que ser estudiadas, para sobrevivir como Naciones Indígenas diferenciadas en un entorno globalizado blanco. Su supervivencia cultural está en algunos casos bajo una presión constante; por lo tanto, el control indígena de la educación indígena representa ciertamente una opción promisoria para encarar el vivir en dos mundos.

Diferencias en principio

Una característica por la cual los pueblos indígenas tradicionales difieren de la sociedad blanca dominante pueden ser sus formas de encarar su propio patrimonio cultural, en particular cómo sus tradiciones son mantenidas sagradas. En el centro de su sistema de valores está el pueblo y relaciones que incluyen el respeto, el pensamiento comunitario, la sabiduría y el sentido del humor. La vida cotidiana es guiada por un enfoque holístico de la naturaleza y el medio ambiente de cada uno. No obstante, especialmente las nuevas generaciones, tienen conocimiento de las formas dominantes, incluyendo la enseñanza en los sistemas de educación blancos y el uso de la tecnología sofisticada.

Ahora algunos líderes y maestros temen que la exposición a la tecnología moderna en las escuelas resulte en la asimilación de los jóvenes indígenas a la cultura no-indígena. Pero existen otras opiniones que argumentan que la tecnología puede ser justamente un medio para preservar y enseñar las tradiciones. Además, la tecnología puede incluso servir para educar a la sociedad más amplia sobre los modos indígenas. Las computadoras conjuntamente con las telecomunicaciones modernas, abren nuevos métodos de educación – que excitan a muchos estudiantes y maestros indígenas. Y estas son ciertamente las capacidades cruciales para el desarrollo económico de las reservas y para ayudar a las comunidades indígenas a superar la marginación y la opresión.

La tecnología ofrece herramientas educativas modernas

Unos cuantos distritos educativos indígenas americanos en los Estados Unidos utilizan y producen herramientas educativas basadas en la tecnología. La reserva Pine Ridge, en Dakota del Sur, la reserva White Earth, en Minnesota, y la comunidad India Hannahville en la península superior de Michigan, tienen una o más escuelas que son verdaderamente ejemplares en su uso de la tecnología. Si bien estas escuelas no son típicas en todo el sistema escolar indígena, demuestran ciertamente la dirección en la cual la educación indígena puede ser dirigida. Algunos líderes son conscientes del potencial que yace oculto en las herramientas tecnológicas, no obstante, tratan de combinar estas

herramientas modernas con la historia y las tradiciones de su pueblo. Un ejemplo de renombre de ese tipo de líder indígena es ciertamente Oren Lyons, un respetado conservador de la fe de la Nación Onondaga, cuyas tierras ancestrales están ubicadas en lo que hoy es la parte superior del estado de Nueva York. Como jefe del clan Turtle y profesor universitario, Lyons hace todo lo que puede para mantener vivos los valores tradicionales y la historia de su pueblo. Ante una reunión de unos 2.000 estudiantes universitarios indígenas americanos en Washington D.C., en otoño de 1992, él expresó sus sentimientos sobre la cuerda floja en la cual caminan los indígenas en la medida en que entran más profundamente en el proceso educacional americano: "Siempre hemos considerado la educación como una forma de asimilar a nuestros pueblos. Y, ciertamente, si se examina la ley sobre la educación indígena, dice muy claramente que su propósito es asimilar a los indígenas al estilo de vida americano dominante. Siempre he estado contra la asimilación. Siempre he estado en favor de la Nación, para el pueblo. Y, sin embargo, una pequeña advertencia: en la medida en que uno se mueve en estos tiempos, cuando uno da sus pasos, no sólo debería mirar hacia atrás, sino dar marcha atrás y no convertir a la educación en un drenaje de cerebros de sus territorios y de sus naciones. Deberían dar marcha atrás. Aplicar sus esfuerzos otra vez en el pueblo. Apoyar el lugar de donde provienen, porque estamos en tiempos peligrosos. Sean cuidadosos. Soy un maestro, soy un profesor de la Universidad de Búfalo. Eso les dice lo que pienso sobre la educación. Realmente me ubiqué en esa posición como una medida defensiva para atrapar a algunos de nosotros antes de que fueran totalmente asimilados (...)".

La visita de Clinton en beneficio de las universidades tribales

Cuando el Presidente Bill Clinton visitó la reserva Pine Ridge en julio de 1999, alentó a sus escuchas a utilizar su universidad tribal, universidad de Oglala Lakota (OLC). El presidente de la tribu, Harold Salway, quien compartió el podio con Clinton, era un reciente graduado de la universidad. La visita tuvo como objetivo llamar la atención nacional sobre el sector más pobre de la nación y estimular la creación de oportunidades de trabajo y la construcción de viviendas. Clinton fue el primer presidente, después de Franklin D. Roosevelt, en visitar una reserva indígena, según el Washington Post.

Las nuevas iniciativas de mercado que Clinton anunció resultarán en varios programas específicos para universidades tribales, según lo expresó Carrie Billy, directora ejecutiva de la iniciativa de la Casa Blanca sobre Colegios y Universidades Tribales. Varias compañías han prometido un patrocinio financiero substancial para objetivos educacionales. Por ejemplo, Microsoft

donará programas de informática por valor de $300.000 a la Universidad de Oglala Lakota.

Fuentes

Richard Simonelli, *TECHNOS* Quarterly For Education and Technology Vol. 2, No. 3, Fall 1993. Richard Simonelli es el editor ambiental de *Winds of Change*, una publicación dedicada a la educación indígena americana.

Matthew Ray, *Indian Education in the Modern Classroom*

Ecocidio en la América del Norte Nativa

> *"El carbón es el hígado de la tierra. Los seres humanos no comprenden lo que está pasando con todas estas corporaciones. Simplemente se está haciéndo sólo por el dinero. Las minas están destruyendo todo por el dinero. Esto se está haciéndo por todas partes a las pueblos nativos. La tierra es nuestra madre. La tierra sufre. El planeta está en peligro. ... morire, luchando contra esta ley. Yo estoy haciéndolo para mis hijos y nietos y sus hijos y sus hijos. Es el futuro de todos."*
>
> Roberta Blackgoat, mayor Dineh (activista) navajo

Incluso al llegar al nuevo milenio la situación aún no ha cambiado: Uno de los "problemas más candentes" en América Nativa desde los días de la colonización ha sido la explotación de los recursos en tierra indígena. Muchos aspectos e intereses se entrelazan cuando se trata con los recursos naturales y las Naciones Nativas. Ciertamente el problema del derecho de la tierra (y libre determinación) es el primero que debe ser considerado, seguido por el reclamo sobre los efectos destructivos de la minería de oro, carbón, y uranio y las perforaciones en busca de petróleo, etc. El talado de miles de acres de bosques vírgenes en Canadá ha acuñado el nuevo nombre del país: "el Brasil del Norte". También, en la mayor parte de los lugares, la pregunta sobre la codeterminación y la compensación justa por los recursos extraídos por las compañías, principalmente transnacionales, no ha sido resuelta todavía, la pregunta principal de si el mundo de hoy está al tanto de la explotación de recursos se examinó desde una perspectiva global de necesidades globales de asegurar la supervivencia de las comunidades del mundo de los pueblos nativos y no nativo.

En cambio, la necesidad de crear trabajo, las presiones económicas y juegos de poder políticos entre las alas "tradicional" y "progresista" de los go-

biernos tribales, gobiernos provinciales/estatales e intereses industriales dejan librado muy a menudo a un conjunto de corporaciones multinacionales el decidir sobre la destrucción final de la tierra que no sólo es herencia de muchos nativos americanos sino también sagrado en el verdadero sentido de la palabra. Pero, estas compañías sólo se preocupan del futuro de sus propios accionistas y no del el futuro de la comunidad global. Es quizá una de las ironías de la historia americana que después de la derrota de los pueblos indígenas, ellos fueron reubicados muy a menudo en tierras yermas que parecían no tener ningún interés para la sociedad blanca. Sin embargo, para mencionar simplemente un ejemplo, aproximadamente 70% de las yacimientos de uranio están en las tierras de los indígenas norteamericanos y de los aborígenes de Australia. Es bastante interesante que los líderes espirituales y tradicionales de hoy, siguen recordando a la sociedad lo que muchas profecías del pasado dicen acerca de la destrucción medioambiental. Simplemente para mencionar la más popular entre los europeos–la Profecía de Hopi–que hablaba sobre la "Calabaza de cenizas" cayéndo del cielo que simbolizó la explosión de la bomba nuclear en Japón. Estas "señales de advertencia" sólo subrayan la necesidad de pasar a una política sustentable en todo lo que nosotros le hacemos a la "Madre Tierra".

Las ironías de Tiempos Modernos

Otra y probablemente una de las más crueles ironías es el hecho que los pueblos Nativos están entre las primeras víctimas del ecocidio que se desarrolla hoy en el mundo contaminado, aún cuando, ellos han vivido en una armonía ecológica con la tierra por miles de años. Esto se ha mostrado en su uso sustentable basado en la interdependencia de seres humanos y naturaleza. Pero los últimos cincuenta años han visto transformaciones más irreparables de la faz del mundo que en los últimos dos mil años. El ecocidio del que damos testimonio hoy, sin embargo, empezó con la industrialización y las olas de asentamientos blancos en el continente americano. Hoy, esto se refleja en la continua indiferencia de las corporaciones y el gobierno sobre la supervivencia de pueblos nativos y sus culturas. Una última ironía de los tiempos es el hecho que no sólo se ha hecho sufrir a los pueblos indígenas bajo la precipitación radiactiva de uranio de las minas y las pruebas nucleares (ver Anuario 1997/98 para el caso del Shoshone Occidental y el Dineh), sino que cuando se queman las barras de combustible nucleares las plantas nucleares occidentales, estos son "devueltos" a las tierras de los pueblos indígenas para ser descargados como desechos nucleares radiactivos–transfiriendo nuestro peligroso legado a menudo a las sagradas tierras de áreas muy vulnerables. Las

Montañas Yucca de Nevada (sagradas para el Shoshone Occidental) han sido señaladas para servir como el vertedero americano para los desechos de 110 plantas nucleares que han producido hasta ahora más de 40,000 toneladas de barras de combustible quemadas. Y en Canadá, el jefe de la Asamblea de las Primeras Naciones Phil Fontaine está luchando contra los planes del gobierno federal para depositar los desechos nucleares en la tierra india del Escudo Canadiense (en Canadá se encuentran algunas de las mayores minas de uranio del mundo en Saskatchewan Norte y es el exportador de uranio más grande que provee de la mayoría de las necesidades de los mercados nucleares europeos). Durante nueve años, una comisión gubernamental ha investigado la región y concluyó en 1999 que constituye la mejor área para un depósito final. Así, el Escudo canadiense no sólo es un rico "almacén" de recursos minerales sino que debe servir ahora también como el depósito de la nación para librarse de los desechos de las minas despojadas. Phil Fontaine se refiere en particular a los *dene* de Deline que han estado trabajando en las minas de uranio. Muchos de los obreros han sufrido muertes prematuras producto del cáncer y el lago cerca de la mina se ha contaminado radiactivamente. Ahora, el gobierno está atrayéndolos nuevamente con ofertas de dinero. El Jefe Nacional está usando su título como representante de los indios del tratado de Canadá para luchar por sus derechos inherentes como guardianes de la tierra.

El "Proyecto del Vampiro" (HUGO)

Lo último en este desarrollo es el hecho de que incluso los genomas humanos son considerados un recurso explotable que puede mapearse, procesarse, patentarse y estar sujeto a los derechos de propiedad intelectuales por compañías de biotecnología modernas a que han invertido miles de millones de dólares en investigación y desarrollo para "extraer" la esencia de la mayoría de los pueblos indígenas para recrear su única estructuración genética para propósitos comerciales: El Proyecto de la Diversidad Genética Humana, un consorcio informal de universidades y científicos en América del Norte y Europa, ha lanzado una campaña para tomar pruebas de sangre, tejido y pelo de centenares de los pueblos llamados "en peligro" y de comunidades humanas únicas esparcidas por el globo. Entre esos objetivos para las pruebas de ADN en América del Norte están los *deleware* y *sarcee* (cada uno con una población de alrededor de 600 individuos). El Proyecto es respaldado por el Instituto Nacional de Salud del gobierno americano, y unido a la iniciativa multimillonaria multinacional para trazar la estructura genética humana conocida como HUGO–la Organización del Genoma Humano.

No llama la atención que este proyecto global se llame "el proyecto Vampiro" por aquéllos que son afectados. Aquí de nuevo, la ironía es cruel: Ya no interesa si un pueblo es amenazado en su supervivencia–los intereses industriales no se preocuparán siempre y cuando ellos hayan asegurado el material genético necesario para reproducir sus rasgos distintivos. El propio material incluso puede ser patentado sin investigaciones ulteriores.

Parece casi demasiado tarde, pero por lo menos los pueblos indígenas han propuesto finalmente las acciones contra patentar la vida: En 1999, ellos emitieron una declaración conjunta sobre los aspectos relacionados al comercio de derechos de propiedad intelectuales (TRIPS) en el acuerdo de WTO y empujó la Organización Mundial de la Salud para requerir una conferencia especial para presentar sus preocupaciones en Ginebra. En particular, ellos señalan el conflicto inherente entre los puntos de vista de la propiedad de blancos y nativos: El conocimiento y la herencia cultural indígena normalmente han evolucionado colectivamente y no pueden ser comerciados: *Nadie puede poseer lo que existe en la naturaleza excepto la naturaleza misma. Un ser humano no puede poseer a su propia madre. La humanidad es parte de la Madre Naturaleza. Nosotros no hemos creado nada y por lo tanto no podemos de ninguna manera exigir ser los dueño de lo que no nos pertenece.*

Fuentes

Rural Advancement Foundation International. RAFI es una organización no gubernamental internacional con sede en Winnipeg, Manitoba, Canadá. RAFI se dedica al desarrollo socialmente responsable de tecnologías útiles para las sociedades rurales y está comprometida con la pérdida de diversidad genética - especialmente en la agricultura - y con el impacto de la propiedad intelectual en la agricultura y seguridad alimentaria mundial.
http://www.rafi.org/web/about.shtml

Donald A. Grinde and Bruce E. Johansen. *Ecocide of Native America*, Clear Light Publishers, Santa Fe, 1995

Holger Schuhmann, Günter Wippel u.a. *Das Uran und die Hüter der Erde*, BUND,GfbV, Quell Verlag, Stuttgart, 1990

Big Mountain Aktionsgruppe. *Coyote*, Munich, 2/99

INCOMINDIOS Switzerland. *Special issue on uranium*, editado en vista de un referendum suizo sobre política nuclear. No. 58, 1990

Fuente general sobre asuntos indígenas www.nativeweb.org. Native Web-resources for indigenous cultures around the world.

CANADÁ

La Nación Innu

El fin del siglo XX fue marcado por una profunda tristeza e introspección entre muchos *innu*, ya que las comunidades de Seshatshiu y Utshimassiu trataron de enfrentarse a un creciente sentimiento de alienación y desesperación entre su juventud.

Por segunda vez en una década, estos problemas se convirtieron en el centro de los medios de difusión mundiales. Un informe titulado *"El Tíbet de Canadá"* de Survival International, que examinó críticamente la situación innu y cuestionó a los muy alabados registros de derechos humanos de Canadá y su reputación internacional, se convirtió en un punto central de un examen internacional de los problemas encarados por los innu. Trágicamente, el informe lanzado el pasado mes de septiembre en Londres por el portavoz innu John-Pierre Ashini fue inmediatamente ensombrecido y empalidecido por la noticia del suicidio de su hijo, que ocurrió sólo pocas horas antes del lanzamiento.

En ese momento, el Presidente de la Nación Innu fue citado por decir:

> *"Es cierto decir que Canadá está matando a los innu. Este país no nos hace fácil vivir como un pueblo. Los gobiernos crean todo tipo de obstáculos. No controlamos nuestras escuelas o nuestros servicios sociales – no controlamos ningún programa en nuestras comunidades. Si se observan los efectos acumulativos de la centralización, las políticas de control y de poner a nuestro pueblo bajo la asistencia social, el efecto neto es que nuestro pueblo está muriendo".*

El pasado mes de noviembre de 1999, fue logrado un importante paso hacia la autonomía ya que los gobiernos de Canadá y Newfoundland alcanzaron un acuerdo con la Nación Innu para transferir el control de la educación y de la policía al Consejo de la Tribu en cada comunidad. Este acuerdo tenía la intención de brindar algunas medidas interinas para tratar con algunos de los serios problemas que enfrenta la juventud en cada comunidad, un paso hacia el pleno control sobre todos los servicios de la comunidad en un acuerdo de autonomía.

Hubo también una serie de otros acontecimientos importantes en 1999 y comienzos del 2000:

En marzo, la activista innu Elizabeth (Tshankuesh) Penashue organizó una marcha para mujeres innu hasta el campo militar de prácticas de bombardeos cerca de Minai-nipi. El propósito de la marcha, que fue realizada usando raquetas de nieve y toboganes (trineos tradicionales) siguiendo una ruta tradicional de viaje innu, era demostrar que el pueblo innu todavía es fuerte y está comprometido con la protección de su tierra. La marcha se ha convertido en un evento anual y atrae a mujeres de varias comunidades innu.

En abril, el panel de evaluación ambiental establecido para revisar el desarrollo de la propuesta mina de Voiseys's Bay sentenció que el proyecto podía proseguir, sometido a varias condiciones importantes, incluyendo la resolución del acuerdo de tierras de los innu y los *inuit* y la conclusión del acuerdo de impacto-beneficios entre Inco y los innu y los inuit. Estas recomendaciones fueron bienvenidas por la Nación Innu como evidencia de que el panel había escuchado cuidadosamente al pueblo innu. Sin embargo, tanto Canadá como Newfoundland rechazaron las recomendaciones y procedieron a otorgar luz verde al desarrollo. Esta decisión está siendo ahora controvertida por los innu en la Corte Federal Canadiense.

En julio, la fuerza aérea italiana anunció que entraba en un acuerdo con Canadá y otros países aliados para realizar entrenamiento de vuelos a baja altura sobre el territorio innu. Los italianos han recientemente prohibido los vuelos a baja altura en su propio país, a partir de un trágico accidente en que un avión jet americano cortó el cable de un cablecarril, causando numerosas muertes. La Nación Innu se quejó formalmente al gobierno italiano y ha pedido una explicación de por qué los italianos creen que es aceptable para los innu vivir con tales riesgos.

En diciembre, líderes innu de Labrador y Quebec fueron invitados a participar en una reunión entre el Premier de Newfoundland Brian Tobin y el Premier de Québec Lucien Bouchard, sobre el propuesto proyecto hidroeléctrico Lower Churchill. Este proyecto masivo, uno de los más grandes jamás propuestos, podría comenzar su construcción en el 2003. La reunión con los Premieres fue ampliamente considerada como un reconocimiento de los dos gobiernos de que los innu deben jugar un rol central en un desarrollo de ese tipo.

En enero del 2000, el enorme proyecto Voisey's Bay fue detenido indefinitivamente por Inco, a continuación de un cese de las negociaciones con el gobierno de Newfoundland. La detención fue aplaudida por la Nación Innu como una oportunidad para que los innu logren progresos en derechos territoriales, salud y desarrollo social antes de realizar importantes desarrollos en su territorio

479

El trabajo continúa en diversos frentes y para los innu, el sueño de lograr un acuerdo de tierras justo, control sobre sus vidas y una parte equitativa en los beneficios que están surgiendo del desarrollo de su territorio, es un sueño por el que seguirán luchando.

Sobre Nunavut y Nunavik ver la sección sobre el Ártico.

ESTADOS UNIDOS

> *"Es hora de que todos nosotros enfrentemos la realidad de las penurias que nos esperan. Es hora de investigar el genocidio que nos amenaza a todos. Es la destrucción medioambiental y humana que la codicia industrial americana está trayendo, no sólo a las Naciones indias, sino también a las otras naciones del mundo."*
>
> Leonard Peltier

Las palabras de este renombrado prisionero político *anishinabe-lakota* expresan la esencia de la situación de los pueblos indígenas en general. Desgraciadamente, las actualizaciones en muchos casos que se han cubierto en los números anteriores del *Anuario* no presentan ningún cambio hacia una nueva y prometedora dirección de justicia y libre determinación; aún más, muchas naciones indígenas del continente norteamericano se mantienen en la lucha contra las estructuras injustas. Por consiguiente, los siguientes relatos deben reflejar problemas ejemplarizantes de las condiciones de vida de los nativos americanos de los Estados Unidos y los primeros habitantes de Canadá.

Leonard Peltier: Revisado Para Libertad provisional y Rechazado– su Última Oportunidad es Clinton

Los lectores del *Anuario* recuerdan el caso de Leonard Peltier que fue declarado culpable originalmente por los asesinatos de dos agentes del FBI en la reserva india de Pine Ridge. Sin embargo, los documentos anteriormente presentados que sostenían la inocencia de Peltier obligarían posteriormente a la fiscalía a admitir que el tribunal no podía demostrar realmente quién mató a los agentes. A pesar de esto, Peltier ha permanecido en la prisión durante 24 años. Amnesty Internacional lo considera un prisionero político que debe ser liberado inmediatamente.

Después de años de hacer campañas intensivas, el Comité para la Defensa de Leonard Peltier con base en los Estados Unidos hizo un llamamiento a la comunidad internacional de partidarios a que una vez más intensificaran las campañas y se focalizaran en *diciembre de 1999*, cuando las acciones continuas y campañas en Washington D.C. y otras ciudades en los Estados Unidos y en Europa llevarían al Presidente Bill Clinton a considerar su caso y conceder finalmente el indulto para Navidad. Sin embargo, la presión de los grupos anti-Peltier parecía ser tan grande que aunque Bill Clinton sabía que no podía ser reelecto no se atrevió a considerar el problema. En cambio, lo dejó a la Ministro de Justicia Janet Reno y su personal para intentar impedir a los abogados de Peltier y a los activistas ocupar las tierras gubernamentales en Washington. En el pasado, la posición anti-Peltier del FBI se ha vuelto notablemente visible con campañas de publicidad en los mayores periódicos contra su liberación. También, el FBI está trabajando en los intereses de compañías multinacionales de energía que desean dejar todo lo que pasó en Pine Ridge encubierto *(por más información contactar: NatAimer@aol.com)*. No es incorrecto hablar sobre las relaciones corruptas dentro de cuerpos gubernamentales que han mantenido a Leonard encerrado durante más de 24 años. No es de extrañar que se le llame el "el símbolo de resistencia india."

El próximo paso para los partidarios de Peltier era negociar para la *audiencia por la libertad provisional* fijada para el 12 de junio de 2000.

12 de junio de 2000: Audiencia por la libertad provisional para Peltier

El 12 de junio, un examinador de libertad provisional debía realizar una audiencia en el caso de Leonard Peltier que llevaba a cabo en Leavenworth la Penitenciaría Federal en Kansas y para hacer una recomendación inicial acerca de si la Comisión de Libertad provisional debería concederle una fecha para ser liberado.

Por un lado, las cosas parecían bastante positivas: Por primera vez, Amnesty Internacional había planeado asistir a la audiencia personalmente. El Consejo Nacional de Iglesias, la Asamblea de Primeras Naciones (AFN) y el Congreso Nacional de Indios Americanos (NCAI) también estaban representados. El consejo legales incluía a los abogados Jennifer Harbury, Carl Nadler, y el anterior Fiscal General de los EUA Ramsey Clark. También testificó.Jean Ann Day, sobreviviente del "reino de terror" de Pine Ridge.

Varias comisiones se habían reunido con el Departamento de Justicia durante el año para instarle a los EE.UU. que concediera la libertad a Leonard Peltier. Pero por otro lado, la Comisión de Libertad provisional nunca había tratado con justicia el caso de Leonard.

Peltier tuvo su primera audiencia de libertad provisional completa en 1993, momento en que la Comisión de Libertad Provisional negó su libertad, mucho más allá de lo que sus pautas recomendaron, y había fijado su próxima para el año 2008. Sin embargo, se requiere que la Comisión realice audiencias subsiguientes cada dos años para determinar si hay alguna circunstancia que amerite un cambio en su decisión original. Entretanto "reconoce que el fiscal ha reconocido la falta de cualquier evidencia directa de que [Peltier] personalmente haya participado en las ejecuciones de los dos agentes del FBI." Durante sus 24 años de encarcelamiento Leonard Peltier ha mantenido un registro de buena conducta y ha sido elegible para ser liberado durante más de nueve años.

Examinador de libertad provisional de los EE.UU. se niega a considerar la nueva evidencia

Sin embargo, lo inconcebible sucedió: Aunque los representantes de Peltier le dijeron al Examinador de Libertad provisional que su salud, las graves necesidades de su familia, y sus positivos logros en el programa eran todas razones para que la Comisión reconsiderara su negativa de libertad provisional, él no atendió al hecho que la Comisión tenía todavía que justificar sus razones para negar su libertad. Él se negó a leer un informe de Dr. Peter Basch que determinó que los problemas de salud de Peltier pudieran dar como resultado "oclusión venosa retinal central recurrente, golpe, enfermedad al corazón, e insuficiencia renal." Él ni mostró interés en los ocho planes de libertad provisional que ofrecían a Peltier vivienda y empleo por varias Organizaciones Nativas y tribus. Y él se negó a aceptar o considerar las 10,000 cartas colectadas durante los últimos tres meses de ciudadanos americanos las organizaciones de derechos humanos, luminarias y miembros de la comunidad internacional que apoyaban la libertad de Peltier.

Sin deliberación o la consideración de cualquier documento presentado, el examinador de libertad provisional recomendó que la sentencia de Peltier continúe hasta su próxima audiencia completa de libertad provisional en 2008. Aquéllos que asistieron informaron que el examinador escribió el rechazo mientras la presentación todavía se estaba haciendo. Semejante conducta necesita ser definida claramente como una afrenta abierta a los principios básicos de derechos humanos y dignidad: Peltier no recibió una audiencia seria o justa en su demanda de libertad provisional; una triste prueba más de como su caso puede fácilmente servir como un caso ejemplarizante de cómo los pueblos indígenas están siendo tratados. El consejo de defensa de Peltier inme-

diatamente declaró que continuaría protestando el rechazo de la Comisión de Libertad provisional en un tribunal federal.

Ahora los partidarios tienen que continuar los esfuerzos para ganar la libertad de Peltier por medio de una concesión de clemencia ejecutiva.

La clemencia ejecutiva

En 1993, el abogado Ramsey Clark se presentó para solicitar la clemencia ejecutiva en el caso de Leonard. La clemencia ejecutiva es un poder que sólo el presidente tiene, permitiéndole conceder la libertad de cualquier prisionero.

Normalmente una petición de clemencia pasa por un proceso en el Departamento de Justicia, antes de llegar al escritorio del Presidente. Como promedio, toma de seis a nueve meses que una petición de clemencia sea revisada y dos años para que el presidente la niegue o la conceda.

Han pasado más de siete años desde que el LPDC se ha registrado y no ha recibido respuesta. La única contestación recibida de Clinton es una carta formulario que declara que todavía está siendo revisada por el Departamento de Justicia. Se sabe ahora que la administración Clinton no ha actuado todavía en las cartas y resoluciones de los parlamentos extranjeros, las Naciones Nativas, las organizaciones de derechos humanos, numerosas personas prestigiosas, y millones de firmas y cartas.

Naciones nativas muestran apoyo

Para primera vez, la Asamblea de Primeras Naciones (AFN) de Canadá y el NCAI de los Estados Unidos mantuvieron una reunión conjunta en Vancouver en honor de la visión de Tecumseh. Durante la histórica conferencia de julio 21-23, ambas organizaciones aprobaron resoluciones unánimes que requieren la liberación de Leonard Peltier.

El 12 de noviembre, 1999 ambas organizaciones se encontraron con la oficina de Janet Reno e hicieron una fuerte súplica de clemencia para Peltier. El 18 de enero de 2000 el Jefe Nacional del AFN, Phil Fontaine, su delegación, y Ernie Stevens del NCAI se encontraron con Leonard Peltier en la prisión al para coordinar la estrategia para su liberación. Juntas, las dos organizaciones representan la mayoría de Naciones Nativas en los EE.UU. y Canadá.

Apoyo Internacional

La campaña internacional es un elemento importante en el movimiento para libertar a Leonard Peltier y a medida que su caso gana notoriedad, la campaña internacional continúa creciendo.

Después de la segunda resolución del parlamento europeo en febrero de 1999 que insiste que se libere a Peltier, otros parlamentos lo han seguido, tal como los de Bélgica e Italia. Tanto los parlamentos británico como francés han introducido mociones que piden al Presidente Clinton que liberea Leonard Peltier.

En abril de 1999, la anterior primera dama de Francia y presidente de una organización de los derechos humanos, Danielle Mitterrand vino a los EE.UU. en una misión para hallar evidencia en nombre de Peltier. Ella lo visitó en la prisión y se encontró con los oficiales gubernamentales en su nombre.

Durante el mismo mes, el Arzobispo Desmond Tutu hizo una declaración pública y se refirió a su caso como un "el borrón en el sistema judicial de este país que debe corregirse tan rápidamente como posible."

En septiembre los varios grupos de apoyo llamaron a sus miembros para unirse a una campaña de tarjeta de cumpleaños para Leonard que cumplió 55 el 12 de septiembre de 1999. Se enviaron las tarjetas del cumpleaños a Leavenworth lo que mostró la solidaridad internacional a las autoridades americanas.

Adicionalmente, el Dalai Lama renovó su llamado para la liberación de Leonard en una carta el 4 de marzo de 2000 que pidió para que fuera "inmediatamente e incondicionalmente liberado."

El LPDC asistió a la última sesión de la Comisión de las Naciones Unidas para los Derechos Humanos en Ginebra.

Varias ONGs en forma oral y por escrito hicieron intervenciones sobre violaciones a los derechos humanos involucradas en el caso de Peltier. El gobierno de Cuba durante la sesión también condenó el encarcelamiento y la negativo a proporcionar cuidado médico a Leonard Peltier.

El Relator Especial de las NU sobre Tortura dio la bienvenida al traslado de Leonard Peltier a la Clínica Mayo para el tratamiento apropiado de su mandíbula, pero también expresó la preocupación sobre la desinformación que se le dio por el gobierno de Estados Unidos y declaró sus planes para llevar a cabo las investigaciones. Él también declaró su fuerte apoyo por la liberación de Peltier.

Sale el Primer Libro de Peltier

Salió el primer libro de Leonard Peltier, las *Escrituras de la Prisión: Mi Vida es mi Sundance*, y puede comprarse a través del LPDC. Se espera que el libro cree olas de inspiración y dedicación para aquéllos que lean sus palabras humanamente honradas, emocionales, y profundas. Para primera vez la historia de Leonard es contada desde la perspectiva personal que sólo él puede dar. Dos publicistas importantes en Francia y Alemania han comprado los derechos al libro.

Por mayor información contacte:

http://www.freepeltier.org

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el e-mail: lpdccfd@web.net

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Apartado postal 583
Lawrence, Kansas 66044,
Tel: +1 (913) 842 5774
el e-mail: lpdc@idir.net

Cartas en apoyo a la repuesta del ministro al informe Allmand deben enviarse a:
The Honorable Anne McLellan
Ministro de Justicia
Minister of Justice
Confederation Building Room 448
Ontario, Canadá KIA OA6,

Cartas en apoyo a la demanda por clemencia presidencial deben enviarse a:
Presidente William Jefferson Clinton
La Casa Blanca
1600 Pennsylvania Avenue
Washington, D.C. 20500,
U.S.A.
President@whitehouse.gov

Fuentes

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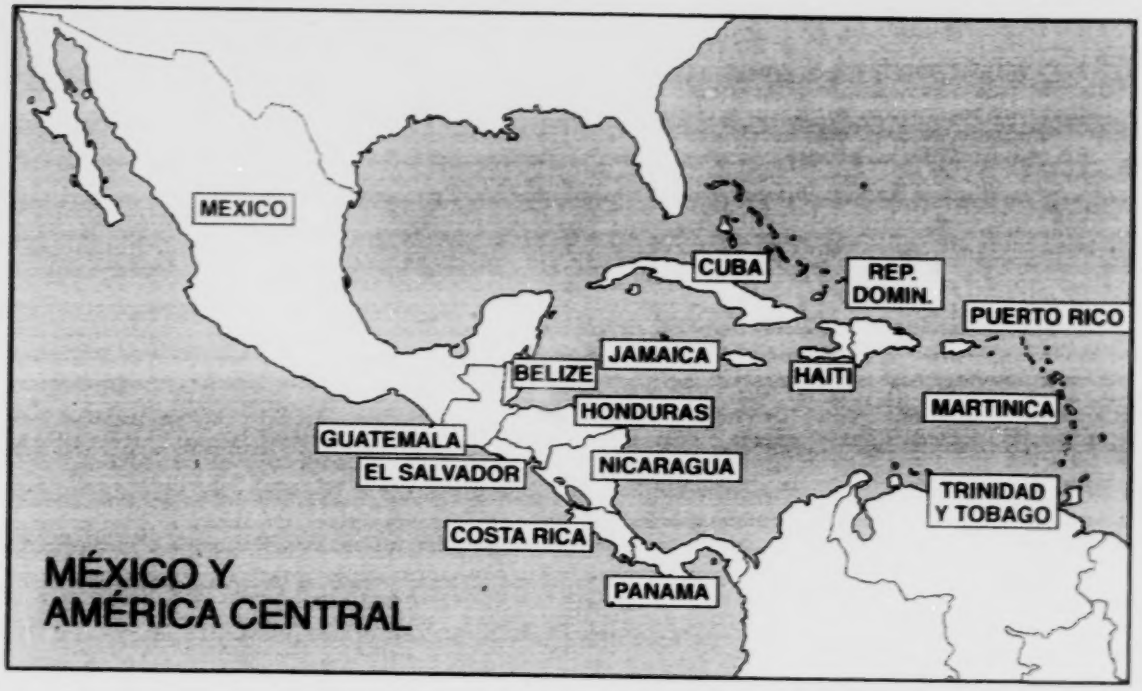

Países tratados en esta publicación: México, Guatemala, Nicaragua y Panamá

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MÉXICO Y AMÉRICA CENTRAL

MÉXICO

Durante 1999 y el primer tercio del año 2000, la problemática indígena en México, fue virtualmente desplazada de los temas de interés nacional. La prolongada huelga estudiantil en la Universidad Nacional Autónoma de México (UNAM) y los debates electorales entre los partidos políticos y sus candidatos a la presidencia de la República, ocuparon las prioridades de los medios de comunicación. No obstante, los pueblos indígenas volvían a recuperar protagonismo en coyunturas en las que misiones internacionales de observación de derechos humanos visitaban México y, constataban la precaria situación de la justicia en el país y, en especial, en los estados de Guerrero, Oaxaca y Chiapas.

Durante 1999 México recibió la visita de altas funcionarias de la Organización de las Naciones Unidas (ONU). La ONU había sido insistentemente convocada para venir a México por dirigentes indígenas de este país, en reuniones celebradas en Ginebra Suiza, en el marco de los trabajos del Grupo Especial de Trabajo sobre Pueblos Indígenas. En julio, la señora Asma Jahangir Relatora Especial para Ejecuciones Extrajudiciales, visitó México. En noviembre arribó la señora Mary Robinson, Alta Comisionada de las Naciones Unidas para los Derechos Humanos. Y en febrero del año 2000, lo hizo la señora Erika Daes, Presidenta del Grupo Especial de Trabajo sobre Pueblos Indígenas. Previamente, en el mes de noviembre, había permanecido en Chiapas un numeroso grupo de observadores que integraban la Comisión Civil Internacional de Observación por los Derechos Humanos (CCIODH). También arribaron diputados del Parlamento Europeo, funcionarios y embajadores de gobiernos, de América y Europa, que recorrieron la entidad chiapaneca durante 1999 y el primer tercio del año 2000.

La postura del gobierno frente a las misiones de observación

Después de 1998 el gobierno mexicano ha endurecido los reglamentos que regulan el ingreso de los extranjeros al país. Con ello impide que los visitantes con visa de turista puedan acceder a comunidades zapatistas, así como a aquellas controladas por el Ejército. En lo general, las misiones de observación que han arribado desde entonces lo han hecho acotadas y rigurosamente vigiladas. Aunque el gobierno había manifestado que la presencia de las altas

funcionarias de la ONU era bienvenida y expresó su disposición a colaborar con el sistema de las Naciones Unidas, señalando que el gobierno estaba tomando medidas correctivas a situaciones de violaciones de derechos humanos, al final terminó irritado y molesto por los señalamientos que recibió en los Informes. En éstos, se hicieron extrañamientos entre lo que el gobierno decía hacer y lo que en la realidad los observadores constataban.

A principios del año 2000, se conoció públicamente el Informe Relativo a las Ejecuciones Extrajudiciales, Sumarias o Arbitrarias, que la Relatora Asma Jahangir presentó en cumplimiento a la resolución 1999/35, de la Comisión de Derechos Humanos (ACNUDH), fechado el 25 de noviembre de 1999. Aunque el informe reconoce las dificultades que el gobierno mexicano enfrenta y los esfuerzos que hace para emprender acciones correctivas, también da cuenta que persistían situaciones que entrañaban violaciones y vulnerabilidad de los derechos humanos en México. La Relatora Especial, por su parte señalaba que "..a pesar de los esfuerzos hechos y de los compromisos contraídos (por el gobierno de México), la situación en materia de derechos humanos sigue siendo causa de preocupación nacional e internacional".

Los Informes del ACNUDH, difundidos por el Centro de Derechos Humanos Fray Bartolomé de las Casas (CDHFBC, abril 2000) destacaban que en México existe una total ineficacia del sistema judicial y una falta de transparencia en el funcionamiento de las instituciones estatales que afectan al país y a toda su población. Menciona asimismo, que hay serias deficiencias en la conducta de procuradores y jueces. También impunidad selectiva de los responsables de las violaciones de los derechos humanos, ya que no se investiga, ni se castiga a los funcionarios públicos de alto rango. Además, los funcionarios encargados de hacer cumplir la ley han utilizado deliberada y premeditadamente una fuerza excesiva y desproporcionada, que desembocó en varias ejecuciones extrajudiciales, violando el Código de conducta que los rige.

En este mismo orden de preocupaciones la Alta Comisionada, había llegado inclusive a *"....externar su desconcierto por la enorme distancia existente entre las declaraciones del Gobierno y las denuncias de violaciones de derechos humanos que pudo conocer a través de los Informes proporcionados por la Relatora Asma Jahangir, de organizaciones no-gubernamentales y de varias visitas in situ a los lugares donde la población había sido afectada por sus derechos"* Frente a tales opiniones, la reacción del gobierno mexicano fue descalificar el informe diciendo que la Relatora *"se había excedido en su mandato"* y que su informe ignoraba las medidas tomadas por el gobierno. (CDHFBC, abril 2000).

488

El doble discurso gubernamental sobre las situación de los derechos humanos, también fue percibido por los parlamentarios europeos, que realizaron una visita a Chiapas. De sus entrevistas con los distintos actores percibían versiones contradictorias, que les conducía a preguntarse ¿quién está mintiendo? Especial preocupación mostraron por lo relativo a las denuncias de la existencia de presuntos grupos paramilitares que estarían violando los derechos humanos y el Estado de derecho. Los europarlamentarios, dijeron que la vigencia del estado de derecho y de los derechos humanos son compromisos que el gobierno de México asumió con la firma del acuerdo de libre comercio con la Unión Europea (Diario La Foja Coleta, 30 de marzo, 2000) Mientras la CCIODH había sostenido una reunión con integrantes de la COCOPA en la que mencionó que había percibido que en Chiapas se vivía una guerra de baja intensidad contra los zapatistas.

Hay que señalar que, sin embargo, no todos los observadores gubernamentales coinciden en ver la realidad mexicana de la misma manera. La embajadora de Suecia, Ehnneom Palmquist, que visitó durante dos días la región Altos de Chiapas y después de entrevistarse con funcionarios de gobierno y organismos de derechos humanos, dijo *que "una de las cosas que he mirado es que no hay señales del conflicto"* (Diario La foja coleta, 26 mayo 1999) Por su parte, el embajador de Gran Bretaña en México, Adrián Thorpe, dijo que en su estancia en Chiapas no observó *"...casos de conflicto, pero sí hay dificultades en diferentes grupos en Chiapas"* (Diario La foja coleta, 24 de marzo 2000). Por su parte, Jeffrey Davidow, embajador de los EEUU en México, visitó Chiapas en abril del 2000, días después de la aparición pública de un nuevo grupo guerrillero en la ciudad de México. En esa ocasión valoró que las guerrillas en éste no tienen mayor relevancia. Dijo que *"México está muy metido en el proceso democrático muy amplio y fuerte, y eso lo define más que cualquier grupito guerrillero que pudiera existir.."* (Diario La foja coleta,25 abril 2000)

Después del impacto que la masacre de Acteal tuvo en el mundo y de los severos cuestionamientos que el gobierno de México ha recibido en el exterior, las embajadas mexicanas intentan cuidar la imagen del gobierno. Pese a la calidad de los Informes y a los importantes esfuerzos que las altas funcionarias de la ONU realizaron para difundir la realidad mexicana sobre los derechos humanos, es evidente que el gobierno de México ha recuperado cierta credibilidad con algunos gobiernos de otros países, lo que lo ha relajado responder sólo en la forma –más no en el fondo- las recomendaciones. Este patrón de comportamiento puede verse en la reacción que el gobierno tuvo

con relación al tema recurrente de los "paramilitares", señalados en todos los Informes.

El gobierno aceptó la presunción de la existencia de "grupos civiles armados" y aceptó, por lo menos, comenzar a investigar el asunto. Para tal efecto, constituyó, el 17 de abril de 2000, la *"Unidad Especializada para la Atención de Delitos Cometidos por Probables Grupos Civiles Armados"* que sustituyó a la *"Fiscalía Especial para los Delitos Cometidos en el Municipio de Chenalhó"*, dependiente de la Procuraduría General de la República (PGR). Días antes, el gobernador del estado había intentado bajar aun más, el perfil de la decisión federal y poner la investigación bajo su control, al anunciar, el día 10 de abril, que su gobierno impulsaría una *"cruzada en contra de los grupos armados que operan en la entidad"* por lo que instó al Congreso de la Unión a que aprobara una iniciativa de *"Ley de Amnistía para el Desarme de los Grupos Civiles Armados"* que había mandado al Congreso de la Unión, dos años atrás.

Desde el punto de vista de algunos organismos de derechos humanos, estas medidas son consideradas como insuficientes y exigen que -dada la gravedad del problema- se tipifique en la legislación federal y los códigos penales correspondientes el delito de *"paramilitar"*, para sancionar y detener las acciones de los grupos armados, como ya se ha hecho en otros países como Colombia, que sufren de este mismo problema.

El movimiento indígena en la coyuntura electoral

Otro de los acuerdos signados por las partes, incluyendo a los diputados de la Comisión de Concordia y Pacificación (COCOPA), contenidos en los Acuerdos de San Andrés, era el compromiso para promover reformas legales que permitieran la justa y digna representación indígena en los congresos, tanto los locales, como el nacional, sin la mediación de los partidos políticos. Después de cuatro años, este acuerdo está incumplido. Los partidos políticos tienen hasta hoy día el monopolio de la representación política. Los indígenas pueden llegar al Congreso solamente mediante la vía de la militancia partidaria. En la coyuntura actual, las burocracias de los partidos se han quedado prácticamente con todas las candidaturas en sus manos y se han cerrado a virtuales fórmulas de alianzas con fuerzas ciudadanas, incluyendo los indígenas. Al concluir esta colaboración, a sólo unos días de cerrar los tiempos para el registro legal de los candidatos, ningún partido político había garantizado candidaturas para el movimiento indígena.

Esta situación es grave para el futuro del avance de los derechos de los pueblos indígenas. Desde 1988 el movimiento indígena ha tenido representa-

ción constante en el Congreso de la Unión, especialmente a través del Partido de la Revolución Democrática (PRD). No fue circunstancial que México se haya adherido –en 1989- al Convenio 169 de la OIT y que en esos mismos años se haya reformado el artículo 4° de la Constitución, incorporando el reconocimiento de derechos indígenas. Después, con altibajos (depende mucho de las personas) el movimiento indígena ha establecido una agenda legislativa indígena en el Congreso de la Unión. Desde allí se han empujado diversas iniciativas, como la construcción de la propuesta legislativa del establecimiento de un Régimen de Autonomía Regional Pluriétnica que es la Asamblea Nacional Indígena Plural por la Autonomía (ANIPA). Esto fue posible, entre otras cosas, por los apoyos que los diputados indígenas ofrecieron a esta iniciativa. En la actualidad las cosas han cambiado, el tema indígena ha perdido interés en los partidos, al mismo tiempo que el movimiento indígena se ha fragmentado y se encuentra en un periodo de reflujo.

Aunque los discursos de los candidatos del PRD continúan abundando en halagos a las culturas de los indios de las pirámides y en lamentaciones sobre la pobreza y exclusión indígena, sin embargo, sus propuestas de solución no pasan por reconocer el derecho a la autorepresentación indígena. Más grave es aun el hecho que al no garantizar representación del movimiento indígena en sus listas de candidatos, este instituto político está violando sus propios Estatutos. El PRD había aprobado, en su pasado Congreso la obligatoriedad de que, por lo menos el 10% de los espacios legislativos, serían ocupados por indígenas.

Lamentablemente en los hechos, las propuestas del PRD –partido autodefinido como de izquierda- están aun más atrás que las acciones indigenistas que actualmente aplica el gubernamental Partido Revolucionario Institucional (PRI). Las cosas no parecen mejorar con la derecha. El conservador Partido Acción Nacional ignora la especificidad indígena. Ha enfatizado en la majestuosidad de sus pirámides y en la belleza de su arte, razón por la cual, el candidato del PAN, propone que de ser presidente de la República la oficina de atención a los pueblos indígenas estará ubicada en el Museo de las Bellas Artes.

Al igual que el resto de los candidatos, la visión marginalista es la que predomina en la perspectiva de este partido. El candidato del PAN considera que en realidad las demandas de los indígenas son tres: "todos los indígenas –ha dicho- aspiran a tener *vocho, tele y changarro*". Es decir que, desde su punto de vista, el programa de lucha de los indígenas se reduce a una meta de tres bienes: a obtener un pequeño automóvil marca volkswagen, un televisor y una pequeña tienda de abarrotes. Como oferta para cumplir tal programa,

ofrece la creación de empleos. Otros partidos más pequeños, como el Verde Ecologista, han promovido eventos en donde el tema indígena ha sido relevante. Empero, tal interés no se ha traducido en una política que garantice la autorepresentación indígena en los espacios legislativos.

Así las cosas, el escenario muestra que en la LVIII Legislatura del Congreso de la Unión y del Senado de la República (2000-2003) el movimiento indígena quedará sin representación.

La situación de Chiapas

Durante el periodo, la situación de Chiapas se caracteriza por un reposicionamiento de los actores, en donde el gobierno federal y estatal, tomaron la delantera en las iniciativas y desplazaron al EZLN a un virtual arrinconamiento, en donde sobrevive cercado por las fuerzas militares y acosado por grupos civiles de indígenas que son sus vecinos y opositores. La nueva estrategia gubernamental ha consistido en fortalecer a estos grupos, de tal forma que el conflicto se ha reposicionado y ha adquirido la forma de una virtual *guerra civil indígena*, de confrontaciones internas alentada en el marco de un esquema de Guerra de Baja Intensidad. En Chiapas, los conflictos que dejan más muertos y encarcelados no han devenido de confrontaciones con las fuerzas policiacas y/o militares, sino de contradicciones intracomunitarias. Esta estrategia gubernamental recurre a múltiples recursos. Tanto al del reparto de dinero bajo el matiz de "proyectos productivos", como al asesoramiento militar de esos grupos y de provisión de armas, como fue claramente visible en Acteal.

Sin embargo, una acción complementaria a las anteriores son las iniciativas gubernamentales que han pretendido "dar cumplimiento" a los Acuerdos de San Andrés de manera unilateral. Las acciones más relevantes son un ambicioso programa de remunicipalización que incluye la creación de una treintena de nuevos municipios colocados exactamente arriba de los municipios rebeldes zapatistas. En julio de 1999 comenzaron a funcionar los primeros siete nuevos municipios, a saber: Aldama, Santiago el Pinar, Benemérito de las Américas, Marqués de Comillas, Maravilla Tenejapa, San Andrés Duraznal y Montecristo de Guerrero, que vienen a sumarse a los 111 ya existentes. El gobierno ya ha avanzado en las etapas del proceso de remunicipalización para que en el año 2000 y 2001 se inauguren otros 15.

Este programa se ha apoyado en una estrategia de fuerte introducción de servicios e infraestructura, que dan respuesta a peticiones de las comunidades que durante décadas habían solicitado sin ser atendidas. Caminos, escuelas y hospitales hoy están llegando a las zonas en conflictos por la vía del progra-

ma de remunicipalización. Además, los más leales suelen "ganar" la sede de la cabecera municipal, lo que significa que adicionalmente son dotados de una plaza pública, palacio municipal y un edificio del "Juzgado de Justicia y Conciliación Indígena", entre otros beneficios.

Estas fueron durante décadas las demandas más sentidas de ciudadanos que, decepcionados por la indiferencia gubernamental, decidieron optar por la vía de las armas. Hoy, muchas de esas demandas están siendo cumplidas en un esquema de contrainsurgencia. Y es que tanto el Programa de Remunicipalización, como los de infraestructura y desarrollo que le acompañan, se inscriben claramente en una estrategia de contrainsurgencia. El gobierno federal y estatal están actuando de manera unilateral, excluyendo al EZLN, aunque tal propuesta de remunicipalización había quedado incorporada como compromiso de las partes en los Acuerdos de San Andrés. Ante la ausencia zapatista, el gobierno suele argumentar que el EZLN debe de incorporarse ¡ya! a los trabajos si no quiere quedar fuera. Mientras que los zapatistas se niegan a ello y reclaman que antes que instaurar nuevos municipios, primero debe de darse la firma de la paz.

Con tales acciones, es evidente que el gobierno está trabajando una estrategia que busca debilitar a los zapatistas y lograr su rendición. Sus acciones no se inscriben en una voluntad que busca el diálogo, como mandan la Ley de Concordia y Pacificación de 1995 y los Acuerdos de San Andrés de 1996.

Por su parte, las acciones y presencia del EZLN se han estado realizando principalmente a través de sus municipios autónomos, que sobreviven debilitados porque segmentos importantes de sus miembros han sido atraídos por la estrategia gubernamental, descrita arriba. Los municipios rebeldes continúan realizando actividades *de facto* que impugnan al Estado mexicano y a sus instituciones. De sus acciones relevantes realizadas en el período fue la decisión de una cuarentena de comunidades zapatistas de cerrar las aulas y expulsar de sus comunidades a 140 profesores indígenas del sistema estatal, para sustituirlos por promotores nombrados por las propias comunidades y establecer "escuelas en resistencia", tal y como ya lo habían comenzado a hacer en Oventic, Larráinzar. En este mismo orden, durante agosto y septiembre, miembros del EZLN, sus bases de apoyo y estudiantes de la UNAM, que los acompañaban, impidieron a la empresa continuar con los trabajos –incluyendo la quema de maquinaria- para construir el tramo carretero comprendido de Las Tacitas a la comunidad Amador Hernández. Esta carretera cruzaría la selva. Para los zapatistas, dicha carretera tiene un claro propósito militar. Mientras que para otros que no lo son, constituye un beneficio durante mu-

chos años solicitado. El asunto de la construcción de esta carretera ha mantenido en constante tensión a la población.

El EZLN realizó también algunas movilizaciones. En noviembre de 1999, zapatistas del municipio de Cancuc realizaron una marcha para exigir al gobierno que cumpla los acuerdos de San Andrés. Más de 600 *tzeltzales*, permanecieron en un plantón de tres horas frente a la presidencia municipal de ese lugar, ubicado en los Altos de Chiapas. También realizaron pintadas en el edificio, en apoyo a su demanda. El cumplimiento de los Acuerdos de San Andrés es la bandera que moviliza tanto al movimiento indígena civil, como al movimiento indígena zapatista. El 10 de abril del 2000, en San Andrés Larráinzar hubo una concentración de unos 500 indígenas, bases de apoyo del EZLN que conmemoraron el aniversario 81 de la muerte de Emiliano Zapata y el primer aniversario de la recuperación de las oficinas del palacio municipal, ahora controlado por bases zapatistas. Esta fecha fue conmemorada en otros "Aguascalientes" rebeldes, que volvieron a mostrarse y a movilizarse para decir "aquí estamos".

Además del EZLN, otras organizaciones indígenas también estuvieron activas. La defensa del patrimonio y del conocimiento indígena cobró relevancia en este periodo. La Organización El Consejo Estatal de Parteras y Médicos Indígenas Tradicionales de Chiapas, integrado por once organizaciones indígenas regionales, se ha movilizado para denunciar (apoyado por el organismo internacional RAFI) y demandar la suspensión de actividades de un programa de bioprospección en el área *maya* de Chiapas, financiado por el Gobierno de Estados Unidos con 2,5 millones de dólares. La dirección del proyecto está a cargo de la Universidad de Georgia, en cooperación con el Instituto de investigación Colegio de la Frontera Sur (ECOSUR) de México y la empresa biotecnológica Molecular Nature Limited, con base en Gales, Reino Unido.[1]

El proyecto tiene una duración prevista de 5 años y se propone colectar y evaluar miles de plantas y microorganismos usados en la medicina tradicional de las comunidades mayas. El proyecto ICGB-Maya (denominado así por sus siglas en inglés), presentado en castellano como *"Investigación, farmacéutica y uso sustentable del conocimiento etnobotánico y biodiversidad en la región Maya de los Altos de Chiapas"*, está en su segundo año de operación. Utilizando el conocimiento indígena como guía de su investigación, el proyecto ICGB en Chiapas se propone descubrir, aislar y evaluar farmacológicamente componentes importantes de especies vegetales y microorganismos usados en la medicina maya tradicional. Un duplicado de

todas las muestras colectadas será depositado en el herbario de la Universidad de Georgia-Athens. (RAFI)

Durante 1999 y en el primer tercio del año 2000, médicos indígenas de Chiapas han realizado protestas en contra del programa de bioprospección y afirman que se está saqueando su conocimiento y sus recursos. Las organizaciones consideran que se están violando abiertamente los principios del Código de Etica de la Sociedad Internacional de la Sociedad Internacional de Etnobiología (ISE por su sigla en inglés), de la cual Brent Berlin (director del ICGB-Maya) ha sido presidente y miembro, que considera el *"Principio de Consentimiento Previo Informado y Veto"* . Además el proyecto está violando leyes mexicanas y de la entidad chiapaneca. Pese a los reclamos de los mayas de Chiapas y de los médicos indígenas, dueños del conocimiento, las instituciones académicas involucradas en el ICGB-Maya, se han negado a suspender el proyecto.

Por otro lado, en este mismo periodo las Regiones Autónomas Pluriétnicas (RAP), impulsaron, por su parte, acciones para fortalecer los procesos autonómicos indígenas a través de la autosuficiencia alimentaria, en el marco de la defensa y el fortalecimiento del maíz criollo y de los sistemas de producción indígena. En Abril de 2000 esta organización realizó actividades ceremoniales, culturales, productivas y celebró el *"Primer Encuentro del Maíz"*, así como capacitación sobre el tema promovida por el *Centro de Capacitación para el Autodesarrollo de los Pueblos Indígenas (CECADEPI)*, para informar y estar preparados ante los peligros que significa la creciente penetración del maíz transgénico en comunidades mayas y *zoques* de la entidad. Los vendedores ambulantes indígenas en la ciudad de San Cristóbal de las Casas también realizaron acciones y movilizaciones. El primero de mayo del 2000, un numeroso grupo fue llevado a la cárcel, dentro ellos también fue detenido el diputado indígena tzotzil, dirigente de las RAP, Agustín Pathistan, violando su fuero.

Otros viejos actores en la entidad volvieron a irrumpir en el escenario público. La legendaria Organización Campesina Emiliano Zapata (OCEZ) "Casa del Pueblo de Venustiano Carranza", salió de nuevo a las calles para reclamar sus tierras comunales. Lamentablemente los enemigos a los que denunciaban, ya no están fuera de ellos, sino adentro, entre sus pares. Muchas escisiones han dividido a esta organización. En realidad, la fragmentación es un signo que caracteriza a la mayoría de las organizaciones indígenas y campesinas en la actualidad. Una parte significativa de este grave problema que cruza el movimiento campesino-indígena chiapaneco, es resultado de la expresa voluntad y acción gubernamental por debilitar este movimiento en el

marco de la estrategia de la Guerra de Baja Intensidad. Pero por otra parte, y con igual relevancia, están los hechos de intolerancia, protagonismo y corrupción que también han ganado terreno en la dirigencia de estos movimientos, haciéndoles perder credibilidad y legitimidad. Los tiempos en Chiapas son de cambios, pero éstos todavía no llegan. O al menos, no en el sentido que muchos quisiéramos ver.

Notas

1 Véase: "*Organizaciones Indígenas Mayas denuncian proyecto de biopiratería en Chiapas.*" RAFI

GUATEMALA

Dos eventos han marcado la vida política de Guatemala durante este año de 1999, incidiendo, sobre todo el primero, en el accionar y demandas de las organizaciones *mayas*. El 12 de marzo se llevó a cabo la Consulta Popular que debería ratificar las reformas constitucionales que emanaban del Proceso de Paz. Sin embargo, un 57% del escaso 12% de los votantes que acudió a ejercer su derecho, decidió no aprobar dichas reformas. Entre ellas, fruto del Acuerdo de Derechos Indígenas firmado en 1995, estaba el reconocimiento de Guatemala como una nación "pluricultural, multiétnica y multilingüe".

El segundo evento, cuyas consecuencias apenas se empiezan a vislumbrar, fueron las elecciones Presidenciales, Legislativas y Municipales llevadas a cabo entre el 7 de noviembre –primera vuelta- y el 26 de diciembre –segunda vuelta. El triunfante en los tres niveles fue el Frente Republicano Guatemalteco –FRG, partido creado por el ex general Efraín Ríos Montt, durante cuyo mandato de facto (1982-83) se cometieron las mascares más planificadas del conflicto interno guatemalteco; y cuyo candidato, Alfonso Portillo, tomo posesión como Presidente de Guatemala el 14 de enero del 2000.

El inesperado resultado de la Consulta Popular ha conllevado muchos y muy variados análisis en Guatemala, intentando dar con las razones del elevado índice de abstencionismo y de la respuesta de los votantes. Se ha hablado del poco interés mostrado por la misma estructura política del país en sacar adelante el proceso de paz tras su firma oficial. De hecho, las 12 reformas constitucionales previstas en los acuerdos se convirtieron en 45 tras su paso por el Congreso, quedando desvirtuado el propósito inicial. Estos mismos partidos –e incluso la recién desmovilizada Unidad Revolucionaria Na-

cional Guatemalteca (URNG)- se mostraron muy remisos a otorgar un apoyo decidido al "sí", y la respuesta afirmativa a las preguntas de la Consulta, que debería ser la apoyada por la institucionalidad estatal, fue promovida por organizaciones civiles, sobre todo de derechos humanos y por las organizaciones mayas. De una forma inesperada, el "no" fue apoyado por sectores conservadores y ultranacionalistas, de una forma mucho más unitaria y decidida que sus contrarios. Entre otros argumentos, se basaban en que el proceso de paz era fruto de la injerencia extranjera en los asuntos internos de Guatemala y que las propuestas indígenas suponían una serie de privilegios además de que atentaban contra la integridad territorial de la nación.

Algunos de quienes han analizado este resultado han apuntado el rechazo, el miedo o al menos la incomprensión existentes hacia el avance de las organizaciones indígenas y el reconocimiento del Pueblo Maya. Se podría decir que la clase media capitalina (que fue la que sobre todo votó al "no") y otros sectores sociales no están aun preparados para asumir las propuestas de una multiculturalidad sin exclusión, donde los indígenas ejerzan plenamente su ciudadanía. No se trata sólo del peso de discursos y prácticas discriminatorias y racistas internalizados durante siglos y que les hacen verlos como inferiores, sino también de un "miedo al indio" inserto en la concepción ideológica de su propio lugar en la sociedad. Por otro lado, la población indígena tampoco parece haber dado el valor que las organizaciones esperaban al potencial y los alcances de su reconocimiento constitucional: pese al esfuerzo desplegado, no acudieron a votar en la proporción necesaria. Aunque los departamentos donde hubo relativamente más participación y más apoyo al "sí" fueron aquellos de población indígena, su apoyo no fue suficiente para contrarrestar las tendencias abstencionistas y negativas.

Este resultado supone para las organizaciones indígenas el fin de una ilusión y también el de una etapa. Desde hace mucho tiempo –al menos desde 1992- todos los esfuerzos a nivel político estuvieron puestos en lograr el reconocimiento legal de la existencia del Pueblo Maya a través de la participación directa en el proceso de paz. Tras la firma del Acuerdo de Derechos Indígenas, se pusieron a trabajar en las Comisiones Paritarias del cual se desprendían para lograr su puesta en práctica. Esto supuso cinco años de trabajo con un apoyo tibio –o indiferente- del Gobierno y decidido de la comunidad internacional –que financió gran parte de las actividades- en torno a un programa definido, que ahora deja de tener sustento legal. Según un líder maya, supuso el fin de una fase -la segunda, tras una primera "formativa"- caracterizada por realizarse en el marco de los Acuerdos de Paz y con el apoyo de la cooperación internacional.

El golpe fue duro y, en vez de pasar a una fase constructiva, como se esperaba, ha habido que pasar a una de reflexión. De hecho, COPMAGUA, la instancia colectiva que centralizó el esfuerzo, "aun no ha levantado cabeza", según un allegado a la misma. Por otro lado, ciertos sectores de la *intelligentsia* y la clase política se han valido de los resultados de la Consulta para desacreditar las pretensiones del movimiento maya y reafirmar que en Guatemala no hay tal "problema indígena".

Sin embargo, no todas las lecturas son tan negativas y el antropólogo Jorge Solares afirma que "lo que se perdió no fue la fuerza real de los mayas, sino la concesión graciosa, aparente y superficial del gobierno hacia una causa que en el fondo le es indiferente". Y así lo ven en parte los mismos mayas, que consideran que lo único que realmente les aportaba la Reforma Constitucional era el reconocimiento legal de su existencia como Pueblo. Eso era importante pues constituía una base para trabajar desde la legalidad. Pero, dicen, desde hace mucho vienen trabajando sin que se les reconozca y así van a seguir haciéndolo. Así, el resultado de la Consulta supone una detención –no el final- de una de las vías de trabajo, la política, pero existen además muchas otras en las que se ha avanzado mucho y "hay que seguir". De hecho, las actividades continúan desarrollándose como hasta ahora tanto a nivel comunitario, en la importante cuestión educativa, o en las relaciones con el Estado y el resto de la sociedad, creando condiciones y aprovechando el empujón que han supuesto estos años.

Esto no implica que las organizaciones afronten este cambio inesperado de una forma triunfalista o quitando importancia a lo ocurrido. El líder antes mencionado continuaba diciendo que en esta nueva etapa debe haber una reformulación del quehacer y los planteamientos de las organizaciones mayas si se quiere continuar con el trabajo desarrollado, apoyándose más y logrando una mayor vinculación entre quienes crean el discurso y trabajan a nivel político en el escenario nacional y quienes lo hacen en las comunidades, en contacto con la gente, que es donde se debe avanzar. Estas reflexiones toman más importancia si se ponen en relación con las elecciones con que se cerró el año político en Guatemala y que, para los mayas, mostraron dos aspectos importantes.

En primer lugar y, como se vio en el planteamiento de la Consulta Popular, que para los partidos políticos de este país, la cuestión étnica no entra aun en su agenda. Excepto la URNG, el resto no asumió planteamientos sobre la multiculturalidad o el reconocimiento de la realidad étnica en sus programas. Además, pese al esfuerzo de las organizaciones mayas por insertarse en la vida política, la proporción de candidatos a diputados fue mínima: entre un

NICARAGUA

Nicaragua post Mitch

Considerado como el desastre natural más grande que ha afectado el país, durante los últimos 26 años, los daños causados por el huracán Mitch, en noviembre de 1998, incluyen entre sus víctimas a numerosas comunidades indígenas *miskitu* y *sumu-mayangna* asentadas en las riberas del río Coco y el río Grande de Matagalpa. Existe un lento proceso de recuperación de los devastadores efectos del huracán con el apoyo de diversos organismos internacionales y nacionales.

En el marco de una serie de actividades de preparación de proyectos y estrategias nacionales de reconstrucción y transformación post Mitch también hubo una integración y trabajo conjunto de sectores representativos de la Costa Caribe de Nicaragua. De esta forma, las autoridades de los dos gobiernos autónomos y los representantes de la sociedad civil presentaron una cartera de proyectos de 95 millones de dólares en la reunión del Grupo Consultivo realizado en Estocolmo, Suecia, en mayo de 1999. Hasta la fecha solamente se ha obtenido un financiamiento de 8 millones de USD, proveniente del Banco Interamericano de Desarrollo, para la ejecución de nuevos proyectos.

Autonomía regional

El año 1999 fue otro año difícil para el proceso autonómico en la Región Autónoma Atlántico Norte (RAAN) y la Región Autónoma Atlántico Sur (RAAS), conjuntamente conocidas como la Costa Caribe de Nicaragua. Por una parte, los Gobiernos Regionales Autónomos, afectados por limitaciones internas y externas, están lejos de desempeñar un rol relevante en el tan ansiado desarrollo integral regional. Por otro lado, los resultados del trabajo de los Consejos Regionales Autónomos (CRA) reflejan un balance aún más negativo. El hecho más relevante del período es desdichadamente negativo y consiste en que el CRA de la RAAN no sesionó durante el año legislativo mayo 1999 - mayo 2000, debido a desavenencias políticas internas y para evitar que el tema de una posible destitución de la Coordinadora del Gobierno Regional Autónomo, militante del Partido Liberal Constitucionalista (PLC), fuera abordado por el pleno del Consejo.

Después de un año de virtual inactividad, el 4 de mayo del 2000 fue electa una nueva Junta Directiva del CRA de la RAAN, integrada por cinco concejales del PLC y dos del Frente Sandinista de Liberación Nacional, en consonancia con el llamado pacto libero-sandinista, negociado en Managua entre

3% y un 5% en los partidos mayoritarios, y un 7% en la URNG. Como consecuencia, en un país en que aproximadamente la mitad de su población se considera indígena, en la actualidad existen 16 diputados indígenas de un total de 113.

En segundo lugar, resultó difícil de asumir por muchos el respaldo dado en las áreas indígenas al partido de quien organizó las mayores masacres precisamente en esa área. Ya había ocurrido en las elecciones de 1995, pero tras la publicación del informe de la Comisión de Esclarecimiento Histórico y el de la Iglesia, este apoyo resultó más difícil de explicar. Este resultado debe hacer pensar e indagar en cómo la gente de las comunidades vive y percibe tanto su participación política a través del voto y las elecciones como el actual "proceso de paz" o de "transición". Y cómo perciben un activismo en organizaciones de contenido étnico en relación a la vida política partidista. En definitiva, si se pretende avanzar en la vía política y para ello se requiere apoyo popular, qué relación existe entre lo que las organizaciones mayas plantean y lo que los mayas necesitan.

Así pues, Guatemala comienza el siglo XXI siendo unos de los pocos países latinoamericanos que aun no reconoce constitucionalmente su carácter multiétnico –a pesar de ser uno de los de mayor proporción indígena-, y con un Gobierno populista autoritario en que los mayas aun ocupan puestos cosméticos – una Ministra de Cultura, dos embajadores en países escandinavos. Pareciera que no es mucho avance en comparación con lo esperado, pero hay que ponerlo en relación a la velocidad del proceso de transición que se está viviendo en este país y de la participación de las organizaciones mayas en el mismo. Lo que en países como Ecuador o Bolivia ha costado al menos treinta años, no se puede pedir en Guatemala a un movimiento con apenas una década de activismo público y tras una experiencia sangrienta cuyos tintes autoritarios aun perduran. No se le puede pedir a las organizaciones mayas tal capacidad de convencimiento ni a la sociedad guatemalteca tal capacidad de asimilación de ideas nuevas. Por ello, pese a este revés, el proceso continúa, insertado y transformando el proceso de transición profunda que vive la sociedad guatemalteca.

agosto y noviembre de 1999. Este pacto consolida la hegemonía de estos dos partidos mayoritarios en la vida política nacional. El partido indígena de YATAMA se retiró de la elección y no obtuvo representación en la Junta Directiva. En cambio, en el CRA de la RAAS se mantuvo el acuerdo político entre el PLC y YATAMA, en la cual fue ratificada por dos años adicionales la Junta Directiva anterior, integrada por cuatro concejales del PLC y tres de YATAMA. El único cambio fue un nuevo nombramiento en el cargo del segundo vocal, pero se mantiene la exclusión del FSLN. Como suele suceder en Nicaragua, en ambos casos, los sectores marginados alegan el uso y abuso de prácticas indebidas en el proceso eleccionario.

Durante este período no hubo ningún avance en cuanto a la reglamentación de la Ley 28, Estatuto de Autonomía de las Regiones Autónomas de la Costa Atlántica de Nicaragua. El tema fue simplemente ignorado.

El proceso de legalización de tierras comunales indígenas

En cumplimiento de una condicionante del Fondo Global del Ambiente, administrado por el Banco Mundial, correspondiente el proyecto Corredor Biológico del Atlántico, el Gobierno de Nicaragua preparó, y posteriormente remitió a la Asamblea Nacional, el anteproyecto de la Ley Orgánica que Regula el Régimen de Propiedad de las Comunidades Indígenas de la Costa Atlántica y BOSAWAS, el 13 de octubre de 1998. Este anteproyecto fue preparado por funcionarios y consultores de diversas entidades estatales, sin ninguna participación de diversos sectores involucrados o interesados.

La consulta del anteproyecto de ley

Con financiamiento del proyecto mencionado, diez meses después de su remisión oficial a la Asamblea Nacional y producto de un dinámico proceso de cabildeo nacional e internacional de organizaciones indígenas y otros organismos de la sociedad civil, se inicia un proceso de consulta bajo la coordinación de la Bluefields Indian & Caribbean University (BICU) en la RAAS y el Centro Interuniversitario Moravo (CIUM-BICU) en la RAAN. Un primer balance indica que son mayores las discrepancias que las coincidencias entre la posición oficial expresada en dicho instrumento jurídico y la de las comunidades indígenas participantes. La mayoría de las discrepancias de posiciones corresponde a los siguientes cuatro aspectos: a) el concepto de tierras nacionales, b) los roles y responsabilidades institucionales, así como la definición de las competencias de las autoridades regionales y representantes de las comunidades, c) nivel de participación activa de las comunidades indígenas, y d) el control de los recursos del subsuelo.

501

Después de seis meses de atraso debido a restricciones financieras, la consulta está prevista para finalizar en julio del 2000. Sin embargo, los resultados preliminares de este proceso están reflejando que el anteproyecto de ley no constituye un marco de negociación que facilite una solución rápida y eficaz del problema de la falta de reconocimiento legal de los terrenos y territorios comunales, dado que son mínimas las coincidencias de posiciones y opiniones. Para esto será determinante el grado de voluntad política de todas las partes involucradas para negociar aspectos conflictivos y/o divergentes, y la correlación de fuerzas entre los grupos sociales y políticos que apoyan o se oponen a la demarcación y titulación de tierras comunales en la Costa Caribe de Nicaragua.

La persistente amenaza del avance de la frontera agrícola

Las comunidades indígenas, por su particular relación con su entorno presentan, en alguna medida, cierta garantía para la conservación de los recursos naturales. Sin embargo, la frontera agrícola avanza a pasos agigantados contra las propiedades comunales. Día a día extensas zonas boscosas del Caribe nicaragüense son destruidas por las quemas ocasionadas por campesinos migrantes en busca de convertir el bosque en áreas propicias para la ganadería extensiva. Uno de los elementos que permiten este avance es la falta de demarcación y titulación de las tierras comunales. Esto es un foco de tensión que podría desembocar en conflictos armados serios si la demarcación de tierras indígenas no se atiende con urgencia.

La falta de legalización de las tierras comunales indígenas y la consecuente inseguridad jurídica de la propiedad comunal es una de las principales causas de conflictos y problemas legales agrarios en la RAAN y la RAAS.

El megaproyecto de un canal seco: un nuevo frente de conflicto sobre la propiedad comunal

En 1999 y durante los meses transcurridos del 2000 mantiene su interés un megaproyecto de desarrollo que involucra a la RAAS y que corresponde a la construcción de un canal interoceánico para el transporte de mercancías entre el océano Pacífico y el mar Caribe y viceversa. Este megaproyecto, denominado popularmente canal seco, es impulsado por dos empresas: Canal Interoceánico de Nicaragua (CINN) y Sistema Intermodal de Transporte Global (SIT Global). Los planes de construcción incluyen un puerto de aguas profundas en Monkey Point, en la Costa Caribe de Nicaragua, que enlazaría con otro puerto en el Pacífico por medio de una red ferroviaria.

Sin embargo, el proceso de discusión y aprobación oficial de los diversos estudios de factibilidad adolece de una participación amplia y efectiva de las autoridades regionales y los grupos poblacionales asentados en el área geográfica de interés. La posible concesión de los derechos de operación de un canal seco pone en evidencia una vez más los intereses contrapuestos del Estado nacional y de las comunidades indígenas de la Costa Caribe, en este caso comunidades del pueblo indígena *rama*, así como la comunidad criolla o afrocaribeña de Monkey Point. Ante esta situación y en apoyo a las poblaciones afectadas, un grupo de organismos no gubernamentales, coordinadas por el Grupo Internacional de Derechos Humanos con sede en Washington, está realizando en mayo del 2000 los trámites para presentar una petición ante la Comisión Interamericana de Derechos Humanos (CIDH) de la Organización de Estados Americanos (OEA), para que este organismo adopte tres medidas cautelares requiriendo al Gobierno de Nicaragua no continuar con el proceso de otorgamiento de la concesión sin antes iniciar un proceso de consulta, diálogo y negociación con las comunidades mencionadas y establecer las garantías de que dicho megaproyecto no ocasione daños irreparables a su identidad y sus derechos económicos, políticos y religiosos.

Esta sería la segunda vez que sectores nicaragüenses recurren a la CIDH de la OEA. Anteriormente, en 1996, la comunidad *sumu-mayangna* de Awas Tingni recurrió a la Comisión para que el Gobierno de Nicaragua cumpla con su obligación legal de delimitar y titular las tierras comunales indígenas de la Costa Caribe de Nicaragua. Esta comunidad aún espera una sentencia favorable de la CIDH, mientras que en los últimos meses ha aumentado la disposición del Gobierno de Nicaragua de negociar un acuerdo entre las dos partes, pero todavía existe una gran diferencia entre el reclamo territorial de Awas Tingni y las sucesivas propuestas del Gobierno.

La disputa por el recurso forestal: riqueza y fuente de acumulación para unos, depredación y despojo para otros

El aprovechamiento de los recursos forestales continúa siendo un tema de discordia en la Costa Caribe. En general sigue prevaleciendo la práctica de minar el bosque y son frecuentes las acusaciones y contraacusaciones de corrupción en el otorgamiento de avales madereros en el ámbito nacional, regional, municipal y comunal. La poca transparencia de algunos síndicos comunales en las negociaciones con terceros, así como en el uso de los ingresos percibidos, está contribuyendo a erosionar la credibilidad y legitimidad de esta autoridad comunal.

503

Los recursos forestales constituyen una de las principales fuentes inmediatas de ingreso monetario para importantes contingentes de población indígena y mestiza. De esta manera, a la par de un debilitamiento de la cultura indígena de cuidar el bosque, en los últimos diez años se observa el fenómeno de revalorización o mercantilización del recurso forestal en muchas comunidades indígenas, para las cuales la extracción de madera puede representar el principal rubro de ingreso monetario. Esta situación también es común a los desmovilizados y desplazados indígenas quienes, al igual que sus similares mestizos, presentan demandas de titulación individual en tierras con abundancia de madera preciosa.

La pugna por una participación en la distribución de los beneficios generados por la explotación forestal es el elemento común de los conflictos entre comunidades organizadas en bloques multicomunales. Por otra parte, existe disconformidad en la mayoría de las comunidades con respecto a la distribución de los beneficios provenientes de la explotación de los recursos naturales de propiedad comunal. La madera en casi todas las comunidades y la arena en Kamla, municipio de Puerto Cabezas, son dos ejemplos representativos en que se argumenta la ausencia de control y de una distribución equitativa de los beneficios.

A manera de conclusión

Existe poca coincidencia entre el anteproyecto de la Ley Orgánica que Regula el Régimen de Propiedad de las Comunidades de la Costa Atlántica y BOSAWAS del Gobierno Central, y las propuestas de las comunidades consultadas. Sin embargo, en las regiones autónomas también hay conciencia de que la demarcación y titulación de tierras comunales indígenas es una condición necesaria para la estabilidad y seguridad jurídica de la tenencia de la tierra y el ordenamiento territorial. La legalización de la tenencia de la tierra de las comunidades indígenas también es una condición necesaria para la promoción de inversiones que permitan un mejor aprovechamiento de los recursos naturales, así como tener acceso a los financiamientos y beneficios de los proyectos de desarrollo.

El año 1999 no fue particularmente bueno para los pueblos indígenas *miskitu*, sumu-mayangna y rama, ni para los grupos étnicos minoritarios afrocaribeños, *creole* y *garífuna*. Persiste una distribución desigual de los beneficios de la explotación de los recursos naturales de las regiones autónomas, el poder relativo de los Gobiernos Regionales sigue siendo débil en su relación con el Gobierno Central y las deficiencias y debilidades en las estructuras políticas indígenas parecen profundizarse más y más con el trans-

curso del tiempo. La población clama por un liderazgo renovado que, con una visión de futuro y un compromiso político genuino con el proceso autonómico, pueda enfrentar con mayores probabilidades de éxito los grandes desafíos del desarrollo regional.

PANAMÁ

Para los pueblos indígenas de Panamá, el último año del Siglo XX fue de intensa actividad política, la llegada de un nuevo gobierno teniendo como Presidente de la República a una mujer traía nuevas esperanzas y las legalizaciones de nuevos territorios indígenas en los últimos diez años significaba la realización de sueños alcanzados mediante tenaces luchas que habían dejado mucho luto y dolor en los hogares indígenas del país. Ante esas pequeñas ventanas aparecían nuevos problemas y muchos de los viejos seguían sin resolverse. Las estadísticas de pobreza y de miseria seguían señalando a las comunidades indígenas como las más afectadas en todo sentido de la palabra.

Durante las elecciones políticas de mayo de 1999, las exigencias más fuertes de nuestros pueblos fueron efectivamente la legalización de las Comarcas (territorios) y su demarcación inmediata (esta última aún sin definirse por el nuevo gobierno), además de las mejores condiciones de vida y respeto a la dignidad indígena, que el partido político que llegará al poder, por lo menos, ratificara el Convenio 169 de la OIT y que las leyes a favor de los indígenas fueran una prioridad para combatir la supuesta pobreza que pregonan las autoridades nacionales.

Como efecto de las elecciones cabe destacar que la unidad en esas regiones fue afectada ya que no hubo participación indígena independiente como ocurre en otros países, es decir, estos tenían que ser postulados por los partidos políticos tradicionales. En esta vuelta fueron elegidos para la nueva Asamblea Legislativa (Congreso panameño) de setenta y un diputados cinco indígenas de las provincias Bocas de Toro y Chiriquí (dos *ngobes*), de Darién (1 *emberá*) y dos de la Comarca Kuna Yala.

Siendo así, el 1 de septiembre de 1999, día en que se instaló la Asamblea Legislativa, se escogió como Presidente de ese órgano del Estado (segundo en importancia) al Diputado Kuna Enrique Garrido Arosemena, del Circuito Electoral 10-2 de la Comarca Kuna Yala. El Honorable Legislador Garrido es un filósofo graduado en la Universidad Católica Santa María La Antigua y se reelegía por segunda vez como Diputado de la República.

Ese hecho cambió radicalmente la vida política de Panamá y la visión que se tenía del indígena en el país. De lado de los pueblos indígenas, fuera del asombro, el aplauso y la legitimación fue unánime. Por la parte no indígena la mayoría también se alegró de que por primera vez en la historia del país un indígena dirigiera uno de los órganos más poderosos del Estado. Ese hecho, a nivel parlamentario del continente de Abya Yala era único también.

Desde ese momento la cuestión indígena ha tomado un nuevo giro y ha hecho que se agilizaran las respuestas a algunas demandas de nuestros pueblos, sobre todo a nivel de Leyes. El 12 de octubre de 1999, hubo una sesión solemne, o especial, en el Parlamento panameño, no para festejar la fecha, sino para destacar la lucha indígena. Ante los diputados nacionales y la Presidenta de la República y demás invitados, el Cacique General Kuna Carlos López hizo el discurso oficial acompañado de otros líderes indígenas.

Para el mes de noviembre la comunidad *kuna* reunida en el Congreso General Kuna, por primera vez en la historia de ese país, jubila a los caciques o líderes tradicionales, por motivos de salud, los señores Carlos López, Julián González y Leónidas Valdés (antes, esos cargos eran vitalicios) y a la vez elige a nuevos tres líderes, Gilberto Arias, Harmodio Vivar y Ospino Pérez, como Secretario General al señor William Pérez. Ese cambio llega en el momento en que el pueblo kuna está consolidando más su autonomía que está siendo acosada cada vez más por empresas mineras y turísticas de países industrializados y de empresarios panameños con capitales multinacionales.

En 1999 el gobierno nacional aprobó dos reglamentos internos de las comarcas indígenas que fueron creadas mediante leyes: la Comarca Emberá-Woanaan en 1983, mediante Ley No. 22, y la Comarca Ngobe-Buglé, mediante Ley No.10 de 1987. Pasada esa fase, las autoridades indígenas presentan ante el Ejecutivo las reglamentaciones internas para sus debidas ratificaciones los cuales se conocen como Cartas Orgánicas.

La Comarca Emberá tuvo que esperar 16 años para que se le reconociera su Carta Orgánica y para ello tuvo consenso y simpatía de los mismos afectados. Finalmente el documento se aprobó como Decreto Ejecutivo No.84 de 9 de abril de 1999, "por el cual se adopta la Carta Orgánica Administrativa de la Comarca Emberá-Wounan de Darién".

En el caso de los *ngobe-buglé* no se tuvo la mejor suerte, porque el documento que aprobó el gobierno traía muchos errores y no tuvo el consenso ni aprobación de los representantes de todas las áreas que conforma la Comarca Ngobe. Mediante Decreto Ejecutivo No. 194 de 25 de agosto de 1999, se

"..adopta la Carta Orgánica Administrativa de la Comarca Ngobe-Bugle", publicado en la Gaceta Oficial del 9 de septiembre de 1999.

Ya para comienzos del nuevo milenio, en esa Comarca se produjeron problemas al momento de la designación de los caciques generales y el fraccionamiento de los congresos regionales y hay una opinión generalizada de que la Carta Orgánica sea reformada, porque ésta se adoptó con fines muy políticos del gobierno anterior y no en beneficio de esa comunidad indígena.

Otro de los problemas latentes en los últimos años y aún sin solucionarse, es el problema que existe en la frontera con la República de Colombia, donde grupos en conflicto han estado invadiendo o incursionando territorios indígenas en Panamá, con choques bélicos entre ellos y ocasionando el miedo y el terror en esas comunidades, sobre todo de los *emberás-wounaan* y de loa *kunas*. Eso ha traído también que algunos políticos panameños vuelvan a plantear la discusión de la posible instalación de una base militar norteamericana en Kuna Yala. Ese proyecto ya fue rechazado en 1997 y esta vez ha corrido la misma suerte. Lo que si aceptó la comunidad kuna es que se reclutaran jóvenes de ese pueblo para formar parte de la policía fronteriza panameña en la región.

Un hecho a destacarse es la conformación a nivel nacional de un Comité Indígena por la ratificación del Convenio 169 que desde noviembre de 1999, a raíz de una nota enviada por el Presidente de la Asamblea Legislativa al Director Regional de la OIT para Centroamérica, Panamá y República Dominicana con sede en San José, Costa Rica, ha venido impulsando una serie de capacitaciones a distintos niveles de los pueblos indígenas en Panamá, lo cual ha acelerado un poco a que el gobierno se preocupara por el tema. Hasta a mediados del año 2000 todavía no se ha ratificado, pero la presión continúa.

El 19 de abril del presente año la presidencia de la república instaló de manera formal el Consejo Nacional de Desarrollo Indígena (CNDI), para la ejecución de la Tercera Meta de su Agenda Social, denominada "Una política social hacia y con los pueblos indígenas". Para esos efectos, la Presidenta de la República Mireya Moscoso, y el Ministro de Gobierno y Justicia, Winston Spadafora, firmaron el Decreto Ejecutivo No.1 de 11 de enero de 2000, que crea el Consejo de Desarrollo Indígena.

Hay diversas interpretaciones sobre la creación del CNDI, algunos a favor, porque a partir de ahora sería dependencia directa del Ministerio de la Presidencia y puede que atienda de manera más rápida las demandas indígenas. Para otros, no es más que cambio de estructura de un Ministerio para otro

sin resolver los problemas indígenas, porque sería prácticamente la mudanza de la Oficina de Política Indigenista del Ministerio de Gobierno y Justicia a la Presidencia. Lo importante de todo esto es que la temática indígena a nivel gubernamental está siendo dilatada a todo nivel.

A comienzos del mes de marzo del nuevo milenio, hubo un Encuentro Internacional de las Mujeres Indígenas del Continente, donde entre ellas analizaron distintos temas y preocupaciones que se están dando a niveles locales de cada país como a nivel internacional. Las anfitriona panameña fue la Coordinadora Nacional de Mujeres Indígenas de Panamá.

A comienzos del mes de abril, hubo un gran escándalo en el país, cuando un grupo de diputados panameños visitaron los cañaverales de las provincias centrales cumpliendo una misión de la Comisión de Derechos Humanos y encontraron cómo los niños indígenas trabajaban como hombres mayores y vivían en situaciones infrahumanas. El colmo de todo esto fueron las declaraciones del Ministro de Trabajo, cuando trata de justificar la explotación de nuestros hermanos *ngobe-buglé* en esos cañaverales de la gente rica y muy allegada al gobierno actual. Dijo que "*Ciertamente las condiciones de trabajo no son las mejores, pero donde ellos (los indígenas) son peores. En el período de zafra ellos comen hasta tres veces al día y las condiciones de aseo son mucho mejor de las que tienen en sus casas, así que cuando bajan de las montañas (..), es como ir de vacaciones*". (El Siglo, 12 de abril de 2000). Pareciera ser que su tarea es justificar que en este país existen ricos y pobres y los que mandan y ponen los términos de trabajo son los ricos, por lo que no se pueden justificar las denuncias hechas por el Defensor del Pueblo, la Comisión de Derechos Humanos de la Asamblea Legislativa.

En esa misma fecha, en la misma ciudad de Panamá, se conoce de que se deja morir a una infante indígena por no contar su familia con dinero para pagar la consulta médica. No se podía esperar otra cosa, el disgusto, el llanto y el grito de la población del lugar pidiendo justicia y luego oír las explicaciones huecas y hasta inhumanas para poder buscar culpables entre la misma familia y sólo faltaba que dijeran que la culpa era de la misma niña por enfermarse. El caso todavía se sigue investigando. Todos esos últimos acontecimientos indican que en Panamá se siguen violando los derechos humanos de los pueblos indígenas que a pesar de haberse conseguido ciertos reconocimientos, siguen siendo gente de segunda clase.

A finales del mes de abril se realizó la Conferencia Anual de Empresa Privada y este año el tema fue sobre "La pobreza en Panamá" y era como se esperaba todos los oradores y documentos dedicaron sus estudios hacia los pueblos indígenas que ellos llaman "los más pobres entre los pobres" y se reprodujo una cantidad considerable de documentos, pero se ve muy poca actividad estatal y de parte de la empresa privada para hacerle frente a esa "pobreza en las comunidades indígenas".

En Panamá, en la primera segunda semana del mes de mayo de 2000, después de casi cuatro años desde que se presentó por vez primera, se aprobó en la Asamblea Legislativa una Ley *sui generis* sobre la propiedad intelectual de los pueblos indígenas de Panamá, después de varias consultas y discusiones con distintos ministerios del gobierno nacional y en consulta con los pueblos indígenas de Panamá, que se considera como único en el área centroamericana y posiblemente a nivel continental.

509

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AMÉRICA DEL SUR

VENEZUELA

En la segunda mitad del año 1999, el gobierno venezolano de Hugo Chávez Frías realizó su primer proyecto político, iniciando la elaboración de una nueva Constitución de la república. La redacción de la nueva *Carta Magna* había de realizarse en el marco de una Asamblea Nacional Constituyente (compárese *El Mundo Indígena, 1998-99*, Capítulo "Venezuela"). A los 30 pueblos indígenas de Venezuela, se les ofrecía así una chance de lograr el reconocimiento de sus derechos específicos dentro del orden constitucional como grupos étnicos originarios del país, caracterizados por sus tradiciones culturales específicas.

La Asamblea Nacional Constituyente constaba de 103 miembros, cien de los cuales fueron elegidos a nivel nacional. Los tres restantes fueron designados entre las comunidades Indígenas del país y con la participación de las organizaciones de los pueblos indígenas.

En el seno de 21 Comisiones especiales de la Asamblea, se iniciaron los trabajos para elaborar la nueva Constitución. Inicialmente había sido previsto que el tema indígena se tratara en la Comisión competente para las cuestiones de discriminación. Por intervención personal de la constituyente indígena Noheli Pocaterra ante el Presidente venezolano, Hugo Chávez, se instituyó, sin embargo, una "Comisión de los Derechos de los Pueblos Indígenas", a la que, además de los tres constituyentes indígenas, fueron convocados otros miembros expertos de la temática indígena.

En setiembre de 1999, esta Comisión presentó un proyecto de varias disposiciones para ser incluidas en la nueva Constitución. Partiendo de un artículo que formulaba el reconocimiento de la preexistencia de los pueblos indígenas y la reafirmación del carácter multiétnico, pluricultural, plurilingüe y plurijurídico del país, varios derechos amplios de los pueblos indígenas fueron declarados, tales como la inelienabilidad de los territorios y tierras ancestrales y tradicionalmente ocupadas por ellos; el derecho al uso, administración y conservación de los recursos naturales existentes en sus territorios; el derecho a mantener y promover sus propios modelos económicos y de sus sistemas jurídicos propios; y una amplia autonomía cultural, como, por ejemplo, los derechos a una educación propia, el acceso a un régimen educativo

intercultural y bilingüe, y el derecho a una salud integral, de acuerdo a sus modalidades de pensamiento y cosmovisión.

A poco de hacerse públicas las previstas disposiciones sobre los derechos de los pueblos indígenas, los adversarios políticos, a través de los grandes medios de opinión del país, comenzaron a atraer la atención pública sobre el tema.

En un Editorial del importante periódico venezolano *El Nacional,* se afirmaba que en el mundo actual, proliferan las "conjuras" contra la integridad territorial de los estados, y olvidándose de esto, muchos países habrían pagado muy caro; que era "no sólo inobjetable sino necesario" que la nueva Constitución tuviera en cuenta la lucha por la igualdad y la preservación de las "culturas prehispánicas", pero al mismo tiempo, los miembros de la Asamblea Nacional Constituyente debían eliminar del texto constitucional toda palabra que pudiera dar pie a dudas sobre la integridad del territorio nacional.

En una entrevista de prensa, Gustavo Pérez Mijares, el presidente del movimiento ultraconservador *Pro-Venezuela*, afirmó - mucho más descaradamente aún que el citado editorial - que con el reconocimiento de la "organización política, social y económica" de los pueblos indígenas y sus idiomas y religiones, el estado estaría promoviendo el desmembramiento de su propio territorio. Y añadío a esta polémica la exageración: Que se entregaría a un minúsculo porcentaje de la población de 1,4% el control del mayor porcentaje de las riquezas naturales así como un área equivalente a casi la mitad de la superficie geográfica de Venezuela.

Con todo esto, añadió, que Venezuela "retrocedería a épocas anteriores a la Capitanía General (régimen colonial, nota del autor), y por consiguiente a una factible confrontación entre etnias que ya no existe en Latinoamérica".

La prensa dio cobertura extensa a la opinión del relativamente desconocido "Consejo Nacional de Seguridad y Defensa" (SECONASEDE), dominado por los adversarios del presidente dentro del ejército. SECONASEDE había publicado un informe en el cual se afirmaba que, en virtud de la nueva Constitución, en Venezuela iba a quedar limitada la aplicación del derecho nacional. Los autores del informe se querellaban de que con la aplicación de métodos de castigo o represión propios de los pueblos indígenas y distintos a los establecidos en el Código Penal, se iba a poner en peligro el respeto internacionalmente exigido a los derechos humanos - una cínica argumentación que invoca los derechos humanos para llevar al absurdo la reivindicación de derechos fundamentales. Se ponía en guardia contra el propósito de los indígenas de transformarse, primero, en "pueblos autóctonos", con territorios colectivos propios, para saltar de esa plataforma a proclamarse "nacio-

nes independientes" (sic). Como de costumbre, se recurrió a la teoría de conjura: Esos *micro-estados indígenas* no estarían en modo alguno en condiciones de alcanzar el (supuestamente!) proclamado objetivo de la autodeterminación, al contrario, su debilidad fomentaría más bien la intervención de intereses extranjeros. SECONASEDE creía también conocer esos intereses: ya a principios de la década 80, algunas organizaciones internacionales de derechos humanos habían declarado la totalidad de la Región Amazónica como "patrimonio común de la Humanidad", despertando así movimientos indígenas separatistas. Fuerzas económicas extranjeras camufladas tras esos grupos querían así mermar los derechos de soberanía de los estados nacionales.

Tales polémicos ataques para impedir el proyectado reconocimiento constitucional de los derechos de los pueblos indígenas procedían de los enemigos políticos de Presidente Chávez - en especial, de algunos sectores de la economía privada; y de parte de políticos desacreditados por su corrupción y vinculados a los partidos políticos Acción Democrática y cristianodemócratas. La temática indígena se utilizó como pretexto y vehículo para sembrar entre el público general prejuicios y malos entendidos contra la aspirada nueva Constitución y contra los pueblos originarios.

El Ministro de Relaciones Exteriores de Venezuela, José Vicente Rangel, se vio en la necesidad de señalar en espacios pagados de prensa lo absurdo de los ataques al previsto reconocimiento de derechos indígenas. De lo que se trataba era de intensificar la participación de estos pueblos, a fin de asegurar el goce y disfrute de los derechos humanos de estos como venezolanos que son. Hizo constar que ninguna de las disposiciones de la nueva Constitución iba a implicar el menor detrimento de la soberanía nacional de Venezuela; y finalmente que el Gobierno propondría al Parlamento la adhesión al Convenio 169 de la OIT.

A consecuencia de los debates públicos se redujeron en cierto grado los planes iniciales de la Comisión de Derechos de los Pueblos Indígenas. Sólo gracias a ese compromiso fue posible la conformidad de otras Comisiones de la Asamblea Constituyente. La versión definitiva de esos derechos quedó así incorporada al texto completo de la nueva Constitución, que fue aprobada con un 71% en el referéndum del día 15 de diciembre de 1999.

El reconocimiento constitucional de los derechos de los Pueblos Indígenas ha colocado a Venezuela entre los países del mundo más progresistas en ese aspecto. Partiendo de un preámbulo que afirma que el pueblo de Venezuela decreta la nueva Constitución con el fin de refundar la República para establecer una sociedad democrática, participativa, multiétnica y pluricultural,

los artículos más relevantes quedan reunidos en un Capítulo propio titulado "De los Derechos de los Pueblos Indígenas".

El reconocimiento de los derechos de los indígenas a sus tierras posee una importancia clave. ¿A qué tierras se refiere ese reconocimiento? La Constitución habla por una parte de aquellas tierras que ancestral y tradicionalmente ocupan; y, además, se refiere a las tierras que son necesarias para desarrollar y garantizar sus formas de vida – es decir, adopta también un criterio orientado a las necesidades futuras de los pueblos originarios.

Participantes indígenas en Caracas discutiendo la nueva constitución (Foto: Archivo de IWGIA).

Ahora queda reconocido como derecho de los Pueblos Indígenas que la tierra es propiedad colectiva inalienable, imprescriptible, inembargable e intransferible.

La nueva Constitución, sin embargo, no habla de territorios indígenas; solamente conoce tierras y, en algunos contextos, hábitats indígenas. Se ha renunciado al empleo del término territorios para evitar posibles implicaciones con los derechos de soberanía.

En la nueva Asamblea Legislativa de Venezuela – el antiguo sistema bicameral ha sido suprimido – tendrán asiento tres diputados elegidos por los pueblos indígenas, "de acuerdo con lo establecido en la ley electoral, respetando sus tradiciones y costumbres".

Una semana antes del Referéndum sobre la nueva Constitución tuvo lugar en la ciudad de Caracas un taller de Concentración Nacional Indígena. En una disposición transitoria de la nueva Carta Magna se prevé que la demarcación del hábitat indígena se realizará dentro de los dos años siguientes a la entrada en vigencia de la nueva Carta Magna. En este taller los indígenas fijaron sus ojos con gran optimismo en el próximo futuro político; claramente conscientes, sin embargo, de que los trabajos para el cumplimiento de la disposición transitoria deben iniciarse con el comienzo del año 2000. Del éxito de la demarcación de sus tierras dependerá en gran medida hasta qué punto van a traducirse a la práctica los derechos constitucionales de los Pueblos Indígenas.

Además, la realización de los derechos de los pueblos indígenas consagrados en la nueva Constitución se basará en buena parte en una legislación nacional que les implementará. Por ejemplo, la jurisdicción indígena debe ser coordinada con el sistema judicial nacional por una ley a dictarse todavía. Igualmente, debe dictarse una legislación que establezca opciones para un régimen de gobierno municipal que tome en cuenta la situación cultural de los Municipios con población indígena. El próximo futuro va a mostrar si dentro de la nueva república van a dictarse estas leyes y si los pueblos indígenas van a tener acceso a estos procesos legislativos, conforme al espíritu de la nueva Constitución.

Recientes casos muestran que siguen las amenazas en contra de sus derechos. Hace poco, las comunidades indígenas *piaroa* denunciaron que la Dirección General de Parques Nacionales otorgó una autorización a representantes del famoso *Instituto Venezolano de Investigaciones Científicas* (IVIC), con sede en Caracas, para realizar investigaciones que implican la colección de partes frescas de plantas y el estudio químico de tales objetos. La autorización otorga al IVIC el derecho para el uso y aprovechamiento de recursos biológicos, dentro del desarrollo de un proyecto denominado "Biomedicina del Bosque Tropical". Los indígenas piaroa consideran tal proyecto como una violación de sus derechos constitucionalmente garantizados sobre su propiedad intelectual colectiva. La Organización Regional de Pueblos Indígenas de Amazonas (ORPIA) y la Oficina de Derechos Humanos del Vicariato Apostólico de

El aprovechamiento de los recursos naturales "en los hábitats indígenas" por parte del Estado se permitirá si se realiza sin lesionar la integridad cultural, social y económica de las comunidades indígenas, - una disposición de especial importancia tratándose de la extracción de riquezas del subsuelo que, *in situ*, siguen perteneciendo al Estado. Para la explotación de esos recursos se consultará previamente a las comunidades indígenas afectadas, a las que – según se concerte en subsiguiente reglamentación legal complementaria – deberán afluir beneficios de este aprovechamiento. Una aplicación adecuada de estas nuevas disposiciones constitucionales, orientada en el espíritu que las inspiró en su redacción, puede garantizar de aquí en adelante suficientemente los intereses de los Pueblos Indígenas, afectados por proyectos mineros e hidrocarbureros.

En la Constitución quedan, además, asegurados los menos controversiales derechos de autonomía en cuestiones culturales. El artículo sobre la protección de la propiedad intelectual colectiva de los Pueblos Indígenas contiene una disposición interesante: queda prohibido el registro de patentes sobre los recursos genéticos y los conocimientos asociados a los mismos. Con esto, la nueva Carta Magna de Venezuela es la única constitución del mundo que intenta poner un dique a la biobiratería practicada por los consorcios internacionales farmacéuticos y de semillas.

En el artículo 126 queda asegurado que los Pueblos Indígenas forman parte de la Nación venezolana, y que el término "pueblos" empleado por la Constitución no debe entenderse en el sentido que se le da en el derecho internacional. Lo que pone fin a las polémicas sobre los Derechos de los Pueblos Indígenas: Esta disposición intenta dejar bien sentado que en ningún caso puede deducirse de ellos un derecho de secesión frente a Venezuela.

No todos los artículos que se refieren a los indígenas están recogidos en el Capítulo constitucional especialmente dedicado a sus derechos. En el Capítulo sobre el Poder Judicial y el Sistema de Justicia, se estatuye que las autoridades legítimas de los pueblos indígenas podrán aplicar en su hábitat instancias de justicia, con base en sus tradiciones ancestrales. Esta jurisdicción indígena, según la Constitución, tiene sus límites en la constitución, la ley y el orden público. Está por verse en el próximo futuro si esta fórmula - que es parecida a las usadas en otras constituciones del continente - no vaya a ser interpretada de una manara muy limitada, que estreche en la práctica la aplicación de la jurisdicción indígena.

La jurisdicción indígena está sujeta a otra limitación: sólo puede ejercerse sobre los integrantes de los pueblos indígenas.

Puerto Ayacucho piden al público el apoyo de una "Acción Urgente", para enviar cartas al Director del IVIC al Ministerio del Ambiente y de los Recursos Naturales, pidiendo la nulidad de la autorización mencionada.

Cabe valorar positivamente los recientes logros de los pueblos indígenas de Venezuela a nivel constitucional. Sin embargo, sigue la destacada imprecisión que existe en la legislación y política indígena venezolana, con una fuerte inseguridad jurídica como consecuencia. El actual gobierno siguió en su ratificación por el proyecto de la construcción de una línea eléctrica de alta tensión, conectando la cuenca del Orinoco con el norte brasileño, que permitirá la transmisión de 200 megavatios diarios al Brasil. Este proyecto había sido originalmente iniciado por el gobierno anterior de Rafael Caldera (véase los detalles en *El Mundo Indígena, 1998-99*, Capítulo "Venezuela"). La construcción del tendido eléctrico supone la destrucción ambiental extensa y la violación de varios derechos de pueblos indígenas de la Guyana venezolana. Desgraciadamente, la primera Ministra del Ambiente del gobierno chavista, Atala Uriana, miembro del pueblo indígena *wayúu*, mostró una completa indefinición frente a esta problemática. Recientemente, el gobierno comenzó negociaciones sobre un acuerdo pacífico con la Federación Indígena del Estado Bolívar (FIB), al mismo tiempo pretendiendo proseguir el proyecto del tendido eléctrico, después de haberse interrumpido el año anterior debido a protestas de ecologistas e indígenas sobre el impacto ambiental y sociocultural. Según informes internacionales, en los inicios del mes de abril del 2000, el presidente venezolano dijo que ha logrado un acuerdo con las tribus y que esperaba terminar los trabajos dentro de ocho meses.

Estas noticias provocaron una situación delicada, que puede producir tensiones internas en el movimiento indígena del Estado Bolívar. En los momentos de terminar la redacción de este informe, no es posible evaluar los últimos desarrollos de una manera más profunda.

COLOMBIA

Todo parece indicar que ante la grave crisis económica y política de Colombia, el Gobierno y los poderes económicos y políticos adelantan una ofensiva contra los derechos indígenas e intentan un cerco contra ellos, que podría ser la antesala de su aniquilamiento.

Lo más notable en 1998 y 99 fue la ofensiva legislativa y administrativa, motivada por la necesidad del Gobierno nacional de obtener los recursos na-

turales de los territorios indígenas para tratar de resolver el déficit fiscal y la crisis económica.

El Estado colombiano reconoce actualmente más de 30 millones de hectáreas como propiedad indígena, cuando en 1960 reconocía oficialmente apenas 600 mil. Esto ha sido resultado de las luchas indígenas y de la solidaridad nacional e internacional y concuerda con la conquista nominal de los derechos indígenas plasmados en la Constitución de 1991 y en el convenio 169 de la OIT, aprobado por ley 21 de 1991.

Sin embargo, es de advertir que la casi totalidad de la tierra reconocida como propiedad estaba ya en posesión de los indígenas. De 30 millones, únicamente menos de 200 mil hectáreas fueron recuperadas de manos de los terratenientes, mediante su compra por el "Instituto Colombiano de la Reforma Agraria" (Incora). Es decir, se aceptaron las reivindicaciones de propiedad en el 95% de los casos, si la tierra era considerada por el Estado como "baldía". Pero únicamente se aceptó entregar a los indígenas tierra de los terratenientes en un 20% de los casos en que fue reivindicada.

En realidad, el reconocimiento de la propiedad de las tierras indígenas estuvo mediado por el poder de los grandes propietarios de tierras y sus intereses tradicionalmente agropecuarios. Sin embargo, en el contexto actual de la globalización, Colombia ha multiplicado desde 1990 por ocho sus importaciones de alimentos y se han dejado de sembrar más de un millón de hectáreas, especialmente en las grandes haciendas. La tierra ya no vale tanto por sus fines agropecuarios, sino por su cercanía a grandes proyectos de inversión petrolera, minera, hidroeléctrica o vial (carreteras, canales, ríos a entregar en concesión).

En estas condiciones, Colombia vive un proceso de re-latifundización, en el cual, en los últimos 15 años, los terratenientes pasaron de tener el 32 por ciento a tener el 45 por ciento de la tierra, habiéndose apoderado principalmente mediante la violencia y el desplazamiento de los campesinos, de las áreas estratégicas de proyectos de inversión.

Así las cosas, la visión con la que se permitió la titulación de tierras a los indígenas es reemplazada por otra. Hasta hace poco la clase política pensaba que el hecho de que la Constitución del 91 declare que la propiedad del subsuelo es siempre del Estado, era suficiente garantía contra los derechos indígenas. Pero la Constitución prohibe la explotación de recursos naturales en territorios indígenas si perjudica la integridad social, económica y cultural de sus habitantes naturales y el Convenio 169 de la OIT establece la obligación de consultarles previamente cualquier medida administrativa o legislativa que sea susceptible de afectarlos directamente.

Los proyectos petroleros son otro obstáculo a los reconocimientos territoriales. Es el caso de las comunidades del Putumayo donde, además, recientemente se dejó por fuera del resguardo reconocido al 85 por ciento del área de las reservas del pueblo indígena *kofán*. El pueblo *mokaná* del Atlántico, despojado de su Resguardo Colonial en forma fraudulenta por un general en 1885 está en un proceso de recuperación cultural y territorial; pero frente a él se ha levantado el contrato de exploración de gas firmado con la British Petroleum-BP, y la Dirección de Asuntos Indígenas del Ministerio del Interior trata de paralizar el proceso de constitución de su resguardo.

De todos modos, una buena parte de los territorios indígenas ya ha sido reconocida, pero no se encuentran a salvo los territorios que se cruzan con contratos petroleros como es el ya firmado con empresas canadienses de 300 mil hectáreas ubicado dentro del Gran resguardo *wayúu* en la Guajira o el formalizado con Amoco (BP) en el Catatumbo en territorio del pueblo *barí*, ya diezmado por las explotaciones petroleras de Mobil, Texas y Gulf desde 1930.

La inclinación del Gobierno, de las transnacionales y de la clase política, que dicho sea de paso se lucra con las regalías petroleras, hidroeléctricas y mineras, es el progresivo ataque contra los derechos indígenas, que ya se anunciaba desde cuando se ha negado hacer realidad la delimitación y funcionamiento de las entidades territoriales indígenas reconocidas por la Constitución del 91, las cuales estaban destinadas a plasmar territorialmente la autonomía política de los pueblos indígenas de Colombia.

Ofensiva normativa contra la concertación

Colombia ratificó en 1991 el Convenio 169 de la OIT y los indígenas tienen el derecho a que se les consulte previamente toda decisión legislativa o administrativa que los afecte y toda explotación de recursos naturales o la realización de megaproyectos en sus territorios.

Desde antes de terminar la administración Samper, sin previa consulta con los indígenas, se expidió el Decreto 1320 de 1998, que modificó los requisitos para otorgar licencias de explotación de recursos naturales en territorios indígenas. El Decreto 1320 limitó las consultas a los casos en que se afecten las áreas "habitadas en forma regular y permanente" por "comunidades" indígenas, determinó que la consulta se realiza en un máximo de dos reuniones y que, en caso de no existir acuerdo, el Gobierno decidirá por su cuenta qué hacer.

Este Decreto desconoce el concepto de territorialidad que consagró el Convenio 169 de la OIT y que se encuentra ampliamente desarrollado en la

Los territorios indígenas reconocidos por el Estado, 45 Resguardos Coloniales, 4 republicanos y 541 reconocidos por el Incora, se extienden sobre el 21 por ciento de la geografía nacional y en ellos se encuentra un porcentaje muy alto de recursos naturales explotables, renovables y no renovables, que, por ejemplo, en el caso del petróleo, supera el 50 por ciento del total del país.

Parece como si los espíritus de los antepasados de los indígenas le hubieran jugado una mala pasada a los conquistadores: los europeos sacaron a los indígenas de las tierras aptas para la agricultura y los redujeron a tierras supuestamente "malas", como selvas, páramos y desiertos, en los cuales se encuentran ahora petróleo, gas, carbón, oro, biodiversidad, ríos para navegación e hidroeléctricas... Los indígenas viven sobre grandes riquezas que la sociedad occidental se quiere ahora apropiar.

Para el Gobierno, la situación es desesperante, como fruto de la aplicación del modelo neoliberal, que ha dejado sin fuentes de recursos al Estado y no tiene otra salida que entregar los recursos naturales en concesiones y asociaciones que permitan un respiro al fisco. Para Estados Unidos, la amenaza para su actual auge económico es la inflación causada por el alza de los precios del petróleo y se requiere con urgencia aumentar su explotación y exportación en países no afiliados a la OPEP como Colombia.

Por otra parte, el Gobierno colombiano trabaja por equilibrar la balanza comercial, deteriorada gravemente por la crisis internacional que afectó a Asia y Latinoamérica y causó una reducción de las exportaciones, mientras la competencia de las importaciones baratas han quebrado a los productores nacionales. El Gobierno devaluó la moneda y busca cómo exportar más petróleo para aprovechar el alza su precio en el mercado mundial.

El presidente Pastrana y su primer Ministro de Minas, Luis Carlos Valenzuela, se comprometieron en noviembre, en Houston Texas, con los empresarios transnacionales del petróleo y la electricidad, a garantizarles la operación en Colombia en las mejores condiciones.

Todos estos intereses repercuten directamente sobre los pueblos indígenas. De hecho, en áreas donde se planean megaproyectos, se ha bloqueado el reconocimiento de resguardos indígenas. Es el caso de Juradó (Chocó), donde a pesar de haberse realizado tres estudios con resultados similares, los tres últimos gobiernos no reconocen el territorio *embera*, porque allí es la salida al Pacífico del proyectado canal seco Atrato-Truandó, que une el Atlántico y el Pacífico, que sería una alternativa al canal de Panamá. La disculpa de los político son los derechos de las comunidades negras, pero la disculpa es falsa porque tampoco a las comunidades negras rurales se les quieren titular sus tierras.

legislación nacional, que incluye las áreas de acceso para actividades tradicionales o de subsistencia, limitándolo sólo a las áreas ocupadas de manera permanente. Lo anterior implica una grave violación a los derechos indígenas y sería la puerta de entrada para la desterritorialización y el etnocidio de pueblos que tienen una movilidad estacional y que por lo tanto no habitan permanentemente en un sitio. La intención del Gobierno era en realidad restringir este derecho y viabilizar las obras y proyectos paralizadas por pueblos indígenas. En primer lugar, en el caso del pueblo *embera katío* del Alto Río Sinú, donde se construyó la central hidroeléctrica que inunda parte de su territorio, y el caso del pueblo *u'wa*, que se opone a la perforación del pozo petrolero Gibraltar 1, en áreas de su territorio tradicional que no es habitado de manera permanente por las comunidades.

Aunque el Decreto 1320 viola doblemente el Convenio 169 de la OIT, pues niega la definición de territorio del artículo 13 de ese Convenio y no fue consultado previamente, el Consejo de Estado lo declaró válido en 1999. En cambio, la Corte Constitucional lo declaró inaplicable a los embera katío cuando estos indígenas interpusieron una acción judicial de tutela contra la hidroeléctrica Urrá S.A.

La jurisprudencia de la Corte Constitucional ha contradicho la del Consejo de Estado en varias ocasiones, pero el Gobierno se escuda en que es el Consejo de Estado el que tiene jurisdicción para determinar la validez de los actos administrativos, lo que aprovecha para violar flagrantemente los derechos constitucionales de los indígenas y el Convenio 169 de la OIT. El Consejo de Estado es el talón de Aquiles de la Constitución colombiana.

La ofensiva contra los indígenas se ha expresado en otras normas, por ejemplo el artículo 142 del Decreto 1122 de 1999 del Gobierno Pastrana, que pretendía dejar abierta la posibilidad para que unilateralmente el Gobierno declarara extinguida la propiedad de los indígenas sobre sus tierras colectivas de Resguardo.

Tal Decreto fue expedido aprovechando facultades extraordinarias que el Congreso dio al Presidente Pastrana y como tenía entonces carácter de ley, su constitucionalidad fue examinada por la Corte Constitucional, que lo declaró inconstitucional. Aunque afortunadamente esta norma fue anulada, demostró las intenciones claramente anti-indígenas del actual Gobierno.

El proyecto de ley agraria

Un nuevo proyecto ley, el No. 151 de 1999, que modifica la Ley de Reforma Agraria (160/94) fue presentado por el Gobierno al Congreso el 25 de octubre pasado.

Este proyecto gubernamental significa un grave desconocimiento de fundamentales conquistas indígenas. En primer lugar, exige para todos los casos de adquisición de tierra para indígenas la previa aprobación de un proyecto productivo empresarial. Se quiere imponer una condición extraña a varias culturas, obligándolas a asumir proyectos empresariales para recibir la tierra a la que tienen derecho.

En realidad, se trata de sacar adelante la propuesta del actual Gobierno, que quiere poner a las comunidades locales a girar en torno a los grandes proyectos de inversión petroleros, mineros, hidroeléctricos, viales, privatización de ríos, plantaciones de palma africana y empresas madereras.

Para el Gobierno:

> *"se impulsarán núcleos productivos agrícolas y forestales, en los cuales se focalicen los esfuerzos de apoyo estatal al desarrollo rural. Estos se entienden como procesos socioeconómicos generados* alrededor de una actividad principal en la cual las comunidades rurales se integren con el sector empresarial en alianzas estratégicas dentro de proyectos productivos exitosos *ya emprendidos o con altas probabilidades de competitividad... Esta estrategia contará además de los recursos del sector privado, con fondos públicos y originados en el Fondo para la Paz y en cooperación internacional".*
>
> *"En las regiones donde sea factible se buscará la vinculación de capital privado a través de recursos financieros o tierras para el mejoramiento del acceso al recurso por parte de trabajadores sin tierra* bajo la modalidad de un programa de alianzas productivas *para la reactivación sostenible del agro que liderará el Ministerio de Agricultura y Desarrollo Rural.*
>
> *Con esta política se pretende convertir el campo en un negocio productivo para todos, impulsando proyectos de inversión descentralizados..."*[1]

La "actividad principal" son los grandes proyectos de inversión; las "alianzas estratégicas" son las aparcerías en gran escala. La prioridad para las plantaciones es el sistema tomado de Malasia, Tailandia e Indonesia donde ha tenido terribles efectos ecológicos, destrucción de selvas, contaminación masiva del aire con el humo[2] y además, en nombre del "desarrollo", destrucción cultural y étnica de las poblaciones indígenas[3]

Para completar, vale decir que en la situación actual los mercados como el de palma africana no tienen un futuro seguro, pues, por ejemplo en el primer trimestre del 99 la producción aumentó 24 % y las exportaciones en 12 %, pero los precios internacionales disminuyeron simultáneamente en 25 % y los precios internos bajaron 31 % durante el mismo período[4].

> *"La caída de tales precios tiene varias explicaciones. Se vislumbra un aumento de 1,8 millones de toneladas de fríjol soya en Estados Unidos frente a la de 1998. También se espera una mayor oferta de aceite de soya y girasol, por cosechas récord en Argentina y Brasil. La producción mundial de aceite de palma superará en 1,3 millones de toneladas a la del año anterior. De otro lado, la gran devaluación de la moneda brasileña, la reducción de impuestos a las exportaciones en Indonesia y las menores compras por parte de China, país que junto con India ha venido participando con 50% del crecimiento de la demanda total de aceites y grasas en los últimos tres años, son factores adicionales que han contribuido a la descolgada de precios."*[5]

Pero por sobre la importante discusión sobre las perspectivas económicas de la palma de aceite, lo que primero hay que apreciar, es cuál es la perspectiva de los grandes terratenientes ganaderos y agroindustriales: continuar un sistema histórico de dominación y concentración de la propiedad de la tierra y la economía y de destrucción de las culturas indígenas y de las selvas.

Para ello el Gobierno colombiano, con el llamado "Plan Colombia", recolecta ahora ayuda económica en varios estados, ligando estos planes "productivos" con los de destrucción de los cultivos ilegales en la Amazonía, mediante fumigación aérea con herbicidas y hongos y sustitución de los cultivos por "proyectos productivos, principalmente cultivos permanentes..... a través de alianzas estratégicas"[6] entre inversionistas, grandes y pequeños propietarios que ofrezcan "oportunidades de empleo alternativo y servicios sociales a la población de las áreas de cultivo." El Plan se extendería a otras zonas del país en fases posteriores.

Ahora que las arcas del Estado están vacías por la crisis fiscal y la corrupción política de los líderes de los partidos tradicionales, utilizarán mediante el "Plan Colombia", el dinero de la "comunidad internacional", para una operación en beneficio privado de los empresarios agroindustriales.

A esa perspectiva hay que agregar la de los inversionistas extranjeros, que complementa y dirige la perspectiva de los terratenientes. La perspectiva de varios de estos inversionistas, por ejemplo, las empresas petroleras, es utili-

zar el "garrote" del Plan Colombia[7] para extender "libremente" sus actividades. Esta "libertad" ha implicado históricamente ignorar los derechos de las comunidades locales, pasar por alto la necesidad de defender el ambiente y los ecosistemas y reducir las regalías y participaciones del Estado.

El proyecto de ley agraria del Gobierno, en concordancia con esta visión de la supremacía de los "proyectos productivos" y de las "actividades principales que sirven de núcleo productivo", elimina la obligación de concertar con los pueblos indígenas, sus autoridades y organizaciones, los programas de constitución, ampliación, reestructuración y saneamiento de Resguardos, obligación que está vigente por decretos de 1397 de 1996 (reglamentario del Convenio 169 de la OIT) y 1690 de 1997 (este último tiene carácter de ley por ser expedido en virtud de facultades extraordinarias del Presidente Samper).

Para completar, el proyecto oficial exige un acuerdo TOTAL de la actividad de reforma agraria, incluida la adquisición de tierras para indígenas, con los planes municipales y departamentales. Para los indígenas, esto significa supeditar la posibilidad de recuperar tierra en manos de los latifundistas, a la voluntad de los alcaldes municipales y gobernadores de departamento, que en la mayoría absoluta de los casos, son agentes políticos de los terratenientes o son ellos mismos latifundistas. De hecho, por ejemplo, la oposición rabiosa a la constitución del resguardo indígena de Juradó, ha sido encabezada por los sucesivos gobernadores del Chocó, los alcaldes de Juradó y la clase política chocoana.

A lo que propone el proyecto oficial hay que agregar que, así como la ley del Plan de Desarrollo ya consagró en 1999 los "proyectos productivos" y "actividades principales", dispone que las Reservas Campesinas, conquista del movimiento campesino, no se harán en la frontera agrícola, sino en zonas de colonización, afectando así gravemente los territorios indígenas, para dejar a salvo los intereses de los latifundistas propietarios de tierras agrícolas que actualmente desaprovechan a la espera de que suban de precios gracias a los grandes proyectos de inversión..

El Gobierno quería que su proyecto de ley se tramitara con mucha celeridad y para ello envío "mensaje de urgencia" al Congreso de la República. Pero éste proyecto no ha podido aun ser aprobado, gracias a la presentación de un proyecto alternativo elaborado por las organizaciones campesinas y apoyado por las indígenas.

La Violencia

Es en este contexto de presión transnacional sobre sus territorios, que hay que ubicar la violencia ejercida contra los indígenas. Más de trescientos líderes

indígenas han sido asesinados desde que la Constitución de 1991 reconoció los derechos a sus comunidades los indígenas. Los Paramilitares, el Ejército nacional, la Policía, la guerrilla, los terratenientes y sus sicarios a sueldo, han cometido estos asesinatos, que en todo caso sirven al interés de desterritorializar al indígena.

No solamente los indígenas sino sus colaboradores son asesinados o amenazados. Es el caso del cooperante vasco Iñigo Egiluz y el sacerdote colombiano Jorge Luis Mazo quienes fueron asesinados en noviembre por un grupo paramilitar en Quibdó, Chocó. Ellos trabajaban con comunidades indígenas y negras y especialmente con desplazados por la violencia. También es el caso del asesinato de líderes del pueblo embera katío del Alto Sinú, Alejandro y Lucindo Domicó, a manos de grupos paramilitares que operan en la región y defienden la hidroeléctrica, las continuas amenazas contra otros líderes de este pueblo y sus asesores; la desaparición del gerente de la campaña Embera Vive Jairo Bedoya y el asesinato del cooperante con los u'wa Terry Freitas y las indígenas de EstadosUnidos Ingrid Wishinatawok y Lahenae Gay, por un frente de la guerrilla de las FARC en Arauca.

Los pueblos indígenas han logrado evitar en muchos casos ser desplazados, en parte por su gran conocimiento del territorio que les permite huir o esconderse en caso de amenazas y porque la Constitución de 1991 declaró inalienables los Resguardos para evitar que sean expropiados para los grandes proyectos económicos. Sin embargo, ha habido desplazamientos forzados, especialmente en el área cercana al río Atrato donde se proyecta el canal interoceánico.

Con el precedente del artículo 142 de Decreto 1122 de 1999, y de la derogatoria en 1993 en México del artículo 27 de la Constitución que declaraba la inalienabilidad de la tierras comunales, los indígenas temen que en cualquier momento se elimine la garantía de inalienabilidad de sus tierras y se les someta al mismo régimen de desplazamiento forzado que a los campesinos.

De hecho, el Presidente Pastrana anunció a los empresarios en el Congreso de Calidad en Cali, el 11 de febrero de 2000, que planea el ingreso de Colombia al NAFTA y una reforma constitucional para dar plena libertad a las inversiones, es decir la fórmula doble aplicada en México y que resultó por una parte en la eliminación de la inalienabilidad de las tierras indígenas y por otra en el levantamiento zapatista.

Notas

1 *"Cambio para construir la paz. Plan Nacional de Desarrollo 1998-200, Bases"* p.p. 260-261

2 SIMONS, Lewis M (text) y Michael YAMASHITA (fotos) "*Plague of Fire*" *National Geographic*; agosto 1998.

3 DJUWENG, Stepanus 1996 "Desarrollo contra Sustentabilidad: una cuestión de confrontación ideológica", en *IGWIA Asuntos Indígenas* julio/agosto/septiembre 1996 Nº3.

4 "Cultivadores de palma con futuro difícil" El Espectador, *Diario Económico*, 29 de mayo de 1999.

5 El Espectador, *Diario Económico*, 6 de junio de 1999.

6 *"Plan Colombia: Plan para la Paz, la Prosperidad y el Fortalecimiento del Estado"*, borrador anexo a la sustentación del proyecto de ley S1758 Aliance Act, de los senadores Coveredell, Dewine y Grassley, traducción de "*desde abajo*", suplemento especial Nº1, octubre de 1999, p. 27. La versión europea Capítulo Quinto, presenta "la construcción de alianzas estratégicas (inversión privada)" como "Democratización y Desarrollo Social". La versión de la Oficina del Alto Comisionado para la Paz y el Departamento de Planeación Nacional, *"Plan Colombia"*, Puerto Wilches, diciembre de 1998, asegura que se buscarán "alternativas económicas que resulten de un proceso de concertación, con empresas privadas, comercializadoras, gobierno y participación activa de la *comunidad, "alianzas estratégicas"*. Los proyectos deberán tomar en cuenta criterios de sostenibilidad económica, social, ambiental e institucional."

7 Vicepresidente de Oxy defiende el paquete de ayuda para Colombia "*Estados Unidos debe proporcionar el garrote*" EL TIEMPO, 18 de febrero de 2000, Bogotá.

ECUADOR

El levantamiento de junio de 1990 fue el inicio de la incursión oficial del movimiento indígena ecuatoriano en la esfera política y social de la vida del país. El poder de convocatoria desarrollado en catorce años (tiempo que lleva constituida la Confederación de Nacionalidades Indígenas del Ecuador CONAIE), ha marcado un protagonismo progresivo y contundente en el escenario nacional. La característica fundamental del movimiento indígena en Ecuador (además de constituir aproximadamente el 45% de la población nacional de 12 millones de habitantes), es el de ser el único movimiento social con una propuesta consecuente de cambio estructural del país de una nueva organización estatal.

En efecto, durante el Gobierno de Abdalá Bucaram (y su afán por controlar al movimiento indígena), fue precisamente un levantamiento indígena lo que incidió enormemente en su caída el 5 de febrero de 1997. Allí la tesis central de la CONAIE fue la realización de la Asamblea Nacional Constituyente como una posibilidad de volver a fundar el país. En tal contexto los

pueblos indígenas lograron el reconocimiento constitucional de los derechos colectivos y la ratificación del Convenio 169 de la OIT. Sin embargo la tesis plurinacional no tuvo aceptación de los Asambleístas.

Sin duda, la participación indígena en la caída de Bucaram y la negociación política en la Asamblea Constituyente, marcaron los hitos del nuevo rol de las nacionalidades indígenas. Simultáneamente a la agenda indígena se han incorporado demandas y propuestas nacionales que se han sumado a las de carácter específico. Es decir, las demandas y propuestas indígenas si bien incluyen sus propios derechos, aluden también a temas de la agenda nacional. Esto fue evidente en el gobierno de Mahuad quien tuvo que resistir tres levantamientos, el último significó su caída.

El primer levantamiento contra Mahuad (marzo 1999) tuvo origen en sus medidas impopulares de ajuste, la ausencia de políticas sociales y su claro sometimiento a los intereses de la banca privada. Allí la CONAIE planteó la creación del Fondo para el Desarrollo de las Nacionalidades y Pueblos indígenas, recursos para la educación intercultural bilingüe y frecuencias para radios comunitarias. Otras demandas fueron: la descongelación de las cuentas bancarias de los ecuatorianos, la congelación de los precios de combustibles y tarifas eléctricas y el establecimiento de un proceso de diálogo nacional para buscar una salida de consenso a la crisis y la modernización del Estado.

Tras seis meses de conversaciones sin ningún resultado y la agudización de las medidas a favor de la banca y los grupos de poder económico, vino el segundo levantamiento en julio del 1999. Allí se reiteraron los planteamientos de marzo y se añadió la propuesta de sanear el corrupto sistema financiero. En los siguientes seis meses se realizaron cincuenta mesas de diálogo sin resultado concreto alguno, la ausencia de voluntad para cumplir los acuerdos firmados en los dos levantamientos fueron más que evidentes.

A todo esto se sumó la decisión del gobierno de pagar el 52% del presupuesto del Estado a la deuda externa, las intensiones de privatización a ultranza de los servicios sociales, el comprobado soborno de la banca a la campaña electoral de Mahuad y la decisión de dolarizar la economía. Estas son medidas que contrastan con una pobreza que alcanza al 70% de la población, 60% de desnutrición infantil, salario básico equivalente a 40 dólares, corrupción, etc. En estas circunstancias se dio el tercer levantamiento, con las consecuencias de dominio público.

Antonio Vargas, presidente de la CONAIE lideró el levantamiento indígena y conformó un triunvirato que reemplazó al Presidente destituido (Mahuad) por aproximadamente tres horas. Los días posteriores a este hecho, la explo-

sión de racismo no se hizo esperar por parte de grupos tradicionales de poder, para quienes la sola idea de la presencia de un indígena en la conducción de un gobierno significaba el desmoronamiento de su status quo.

Movilización indígena en Quito contra Mahuad (Foto: Archivo de IWGIA).

¿Alianza con militares?

En los últimos años, y más acentuado a raíz de la firma de la Paz con Perú, la desconfianza y confrontación entre indígenas y militares ha pasado a un proceso de acercamiento. Este hecho tiene que ver con la búsqueda de un nuevo rol por parte de las fuerzas armadas sin perder su poder real en el país. Por su parte los indígenas por un pragmatismo lógico consideran a los militares como actores con los que hay que encarar los temas conflictivos.

Durante el último acontecimiento que vivió el Ecuador, la jerarquía militar efectuó, en una actitud sin precedentes, un acercamiento directo con la dirigencia de la CONAIE. Las fuerzas armadas, conocedoras del cuestionamiento radical de la CONAIE contra la descomposición institucional del país y la dramática crisis económica, plantearon acordar una estrategia de acción dirigida a poner fin a las causas de la crisis, principalmente la corrup-

ción. Está claro que lo militares han seguido de cerca el proceso indígenas y su proyecto.

La estrategia que se planteó era la de una movilización social de gran fuerza, capaz de protagonizar un cambio estructural del país sin violencia. Sin embargo la jerarquía militar, por las presiones internas y externas, y por no aparecer como golpista, cayó en la utilización de un doble discurso: hablar de una estrategia de cambio con los indígenas, pero en público manifestar el apoyo al "orden democrático". De ahí que cuando el levantamiento indígena había tomado fuerza y, cuando el Congreso Nacional y la Corte Suprema de Justicia se hallaban ya ocupados, quienes intervinieron por sobre la ambigüedad de la cúpula fue un sector de los mandos medios del ejército, en su mayoría coroneles, quienes en la actualidad, guardan prisión y están siendo procesados por la justicia militar, en una especie de purga interna, que busca restaurar la gran ruptura interna que experimentan hoy las fuerzas armadas y que sin duda permanecerá por largo tiempo.

La aceptación de la dirigencia indígena del apoyo ofrecido por parte de los militares al cumplimiento de los objetivos del levantamiento fue una decisión estratégica que no funcionó, porque dicho apoyo fue retirado en los momentos cruciales, cuyas razones tienen que ver con: la división de las tres ramas que constituyen las fuerzas armadas, en cuyo interior se fraguó la decisión de un golpe exclusivamente militar al calor de la coyuntura .

Con esta decisión de optar por una suerte de alianza con los militares, los indígenas pusieron en práctica lo que muchos sectores tradicionales tenían en mente, pero que por la hipocresía que caracteriza a muchos ecuatorianos -por no aparecer golpistas- no lo hicieron. Pero vale señalar que la CONAIE no dio el primer paso para ir a proponer a los militares el respaldo a sus objetivos, fueron los militares quienes primeros se acercaron para plantear sus puntos de vista frente a la crisis y proponer la posibilidad de una alianza. Este es un hecho que rompe con la tradición política ecuatoriana de "ir a golpear las puertas de los cuarteles". Y demuestra, además, que la comprensión de los militares sobre los pueblos indígenas experimenta cambios, pues al parecer actualmente la lectura ya no es tanto como la de "subversivos" o "amenaza a la unidad del país", sino más bien se evidencia un reconocimiento como sujetos sociales de cambio.

Los indígenas sin los prejuicios del golpismo o no golpismo, frente a una democracia dudosa, aceptaron que los militares se embarcaran en su proyecto de transformación. Sin duda un error, puesto que tal posibilidad solo podría pensarse bajo la mediación de un tratado de paz entre militares e indígenas. Sólo así se pondrá fin a la secular confrontación entre los defensores de

la nación unitaria y los que buscan construir un país pluralista, pero para ello aun deberán transcurrir muchas lunas hasta que el esquema mental de las fuerzas armadas cambie como también el actual esquema de Estado.

Casa adentro

Los tres últimos años, el proceso en el que se encuentran las nacionalidades y pueblos indígenas del Ecuador a través de sus organizaciones, es la compleja transición de las estructuras indígenas gremiales a las estructuras de autogobierno. Es decir, superar la etapa de la organización corporativa de estilo y discurso cuasi sindical, para asumir, bajo el enfoque de nacionalidades y pueblos, un proceso de revitalización de las sociedades indígenas que implica la autodeterminación.

Una tarea fundamental para este proceso la constituye la unificación de las distintas facciones organizativas sobre la práctica de la democracia indígena, cuyas tendencias y motivaciones muchas veces resultan religiosas o sindicales, que hasta el presente han fraccionado los pueblos. Otro aspecto para el cumplimiento de este proceso resulta en la necesidad de una clara definición de la participación electoral como estrategia orientada a garantizar la presencia indígena en las instancias de poder, en función del modelo de Estado que se plantea. Finalmente se precisa establecer las reglas del juego en las relaciones Nacionalidades Indígenas y Estado, a fin de que el cumplimiento de los derechos indígenas, entre ellos la participación en la conducción del país, no signifique la institucionalización de los pueblos indígenas en la creación de guetos institucionales ni la coptación por parte del Estado monocultural.

La coyuntura

Tras los hechos de enero, el sucesor de Mahuad (Noboa), planteó retomar los diálogos con la CONAIE, constituyendo para ello un organismo sui generis denominado GANE (Gran Acuerdo Nacional Ecuatoriano). En este contexto, se reveló una vez más la ausencia de voluntad para discutir y encontrar respuestas a los temas de fondo y que fueron los postulados del levantamiento.

Bajo la comprensión paternalista y prejuiciosa de que 'la solución de los problemas de las etnias ayudará a mantener la paz social y consecuentemente la unidad nacional', bajo este absurdo tradicional, el régimen pretendió hacer aparecer como "grandes acuerdos", aspectos en los que el Estado está obligado constitucionalmente a garantizar a los pueblos indígenas (sin necesidad de acuerdos rimbombantes) elementos tales como, mayor atención en educación, entrega de sitios de valor histórico y cultural, electrificación, etc.

Los tres últimos meses han transcurrido en este intento de "tomadura de pelo", sin que el gobierno y demás instancias del poder estatal hayan asumido la tarea de discutir la crisis estructural del país. En vista de aquello y a mediados de abril, la CONAIE suspendió todo tipo de conversaciones con el Gobierno. La situación del país post-Mahuad se ha agudizado con creces y el Gobierno se dispone a consumar la dolarización de la economía y a aplicar medidas de ajuste planteadas en una carta de intención con el FMI, que entre otros aspectos, significa la subida de los derivados de petróleo en un 120%. La CONAIE se apresta a otro levantamiento.

PERÚ

El escenario político ha estado fuertemente marcado, durante todo el año 1999, por un enrarecido clima pre-electoral. El gobierno, en campaña desde hace años, se ha visto obligado a pasar muchas veces por encima de la legislación, la Constitución e incluso los Tratados Internacionales a los que estaba adherido, para lograr su reelección. Existe una conciencia ciudadana generalizada que estima que la democracia está en franco deterioro y que la confianza en las instituciones estatales, puestas -al igual que el presupuesto- al servicio completo de los objetivos del continuismo, es muy precaria. Los poderes legislativo y judicial, el ministerio público, el sistema electoral y el aparato completo del Estado muestran una visible subordinación a los intereses y objetivos de muy pocos actores decisorios. La Defensoría del Pueblo, un organismo persuasor, autónomo pero no autosuficiente, ha quedado como el único y sobrecargado recurso democrático con credibilidad ciudadana.

Por lo que respecta a los pueblos indígenas, su tratamiento durante el año pre-electoral ha oscilado entre los compromisos de imagen del gobierno y los propósitos reales de política. Con poco caudal electoral en comparación con los sectores migrantes que aspiran a ocupar las tierras indígenas y que vienen siendo tituladas masivamente por el PETT (Proyecto Especial de Titulación de Tierras), los pueblos indígenas no son funcionales a los intereses del gobierno como éste lo ha hecho explícito en sus reformas legislativas. En efecto, en las líneas de interés del Estado respecto de la Amazonía se mencionan: la política petrolera y minera, la privatización de lotes de tierra, la política concesional de largo plazo, la política vial y una política de promoción de inversiones orientada a facilitar ingresos complementarios a la empresa privada, generalmente en base a actividades con retorno inmediato de la inversión. Todas estas líneas se obstaculizan por un único sector social: el sector

531

indígena que ve en cada una de ellas una amenaza latente sobre su autonomía y sus derechos.

No obstante, fuentes importantes de financiamiento internacional y organismos de control de los derechos humanos, por diferentes motivos, son especialmente cuidadosos en cuanto se refiere a la problemática indígena, lo que obliga al Estado a mantener una actitud dual de concertación y reconocimiento declarativo en los escenarios visibles, y una política de hechos consumados irreversibles a nivel local, utilizando la movilización de un contingente social adepto al gobierno.

Tierras indígenas

Pese a que el 55% de la superficie agropecuaria del país es de propiedad colectiva, a partir de la Ley 26.505 (Ley de Tierras) este tipo de propiedad ha quedado desprotegida y sometida al derecho común de corte privatista. Por otra parte, pese a la facilidad con que se concretan por el PETT los procedimientos de titulación a individuos (con presentación de testigos y demostración de un año de posesión), las dificultades para la titulación de las tierras comunales aumenta cada día y aproximadamente un 28% de las comunidades indígenas o no están tituladas, o sus documentos no están perfeccionados. Se alega falta de recursos mientras que se han entregado, hasta septiembre de 1999, más de 220,000 títulos individuales.

Un panorama crítico es el referente a la seguridad territorial y a las políticas de desarrollo. En la Amazonía siguen latentes las amenazas del sistema de privatización de tierras libres y la determinación de lotes puestos a subasta, en muchos de los cuales se encuentran poblaciones indígenas, incluso de algunos pueblos no contactados (o voluntariamente aislados).

El anuncio de la construcción o refacción de carreteras de penetración ha tenido efectos inmediatos y ya se han producido invasiones masivas en las rutas anunciadas, como es el caso de las comunidades *aguaruna* de San Ignacio. Otras iniciativas, legales o administrativas, inconsultas ponen en riesgo los territorios indígenas. Así, la creación de áreas naturales protegidas sobre territorios titulados, las nuevas propuestas de la Ley Forestal, las leyes que afectan la propiedad de los centros urbanos de los Pueblos Tradicionales, la Ley de Aprovechamiento de los Recursos Naturales, la promoción de la parcelación individual, el acoso tributario a las Comunidades que ejercen actividad forestal, la práctica paralización de las titulaciones colectivas, la negativa a aceptar las pruebas de la ilegalidad de los contratos forestales en la Selva Central, las invasiones promovidas desde proyectos oficiales como el PAR y otras iniciativas, hacen ver propósitos complementarios al agresivo tratamiento

de la propiedad indígena que abrió la Ley de Tierras (Ley 26.505) y que marcan el agudo contraste entre el modelo indígena y el modelo oficial de aprovechamiento de la Amazonía.

En concreto, es el sector maderero el que está resultando más agresivo en los últimos años, comenzando a resquebrajar las bases culturales y sociales sobre las que se fundamentaba el tradicional manejo de los recursos territoriales.

Condenados al exilio

Las comunidades *asháninka* fueron diezmadas por la violencia en la que participaron en defensa de la paz. Muchas comunidades se vieron obligadas a abandonar sus territorios en esa contingencia. En la región de Pangoa y otras aledañas, el retorno se ha visto obstaculizado por la existencia de grandes contratistas madereros cuyos derechos, otorgados irregularmente en los momentos de mayor conflicto, son encarecidamente defendidos por los funcionarios locales. Un Decreto 838, destinado a favorecer la rápida titulación de los afectados por la violencia, se les ha negado a los indígenas pero ha sido aprovechado para proveer de tierras a colonos de reciente migración para, de esta manera, desanimar definitivamente las pretensiones indígenas de recuperar sus tierras ancestrales.

ARPI, la organización indígena regional viene organizando múltiples operativos y campañas entre sus afiliados, así como en escenarios nacionales e internacionales, durante 7 años, pero los derechos les siguen siendo negados.

Un reciente estudio de CARITAS del Perú señala que, en estas poblaciones, la desnutrición infantil alcanza el 91%.

De agredidos a agresores

La comunidad *huambisa* de Villa Gonzalo que se ubica en el margen derecho del Río Santiago, logró titular su comunidad con una extensión de 13.200 Has. de las cuales sólo 2.112 Has. son aptas para la agricultura. Esta titulación se hizo cuando la comunidad tenía solo 850 habitantes y tres anexos; actualmente la población asciende a 3.000 habitantes y tiene siete anexos, existiendo una mayor demanda y presión sobre los recursos naturales y la tierra, razón por la cual el año 1986 se inicia la gestión oficial de la ampliación del terreno comunal ante el Ministerio de Agricultura en una área colindante de ocupación tradicional excluida arbitrariamente de la demarcación original y en la que la comunidad había venido realizando acciones de

reforestación cuyas plantaciones y su buen mantenimiento fueron reconocidos por el Municipio Distrital de Río Santiago.

En uno de los anexos, Puerto Galilea, colonos procedentes de Cajamarca y Piura, en complicidad y con apoyo de algunos funcionarios de la Agencia Agraria de Nieva, invadieron un área de 3.179 has. y formaron una cooperativa de producción ganadera en las áreas territoriales de ocupación milenaria. Desde su llegada, estos colonos vienen manteniendo conflictos constantes con la comunidad de Puerto Galilea, que ha venido solicitando al Ministerio de Agricultura una solución pacífica y definitiva al problema. Se realizó la inspección ocular, en cuyas recomendaciones se reconocen los derechos de las comunidades y la necesidad de una solución a favor de las mismas.

A partir de ese momento, los colonos comenzaron a denunciar a los comuneros en complicidad con las autoridades ante la Fiscalía Provincial de Condorcanqui, el Juez Mixto acepta el expediente, forma el proceso judicial y maliciosamente el 10/02/97 sentenció en proceso sumario a cuatro comuneros, declarándolos culpables por delitos de usurpación y exigiendo por su libertad condicional la suma de S/ 250,00 mensuales por dos años y medio a cada uno, una suma impagable por ningún comunero porque no existe esa capacidad económica.

El 19 de abril de 1997, doce policías junto con el Fiscal Provincial, intentan apresar a los Jefes comunales y comuneros, lo que provocó un enfrentamiento con las mujeres huambisas logrando expulsar a los policías y al Fiscal. Como secuelas del disturbio nuevamente los colonos denuncian a un grupo de 12 indígenas entre jefes y comuneros, esta vez por el delito de seguridad pública. Es encarcelado el Jefe de la Comunidad de Chosica. La organización nacional AIDESEP asumió el caso y fue liberado bajo libertad condicional. En fechas recientes, capturan al profesor de la Comunidad, Simón Noningo, quien viajaba a la ciudad de Nieva para dar inicio a sus labores educativas y hoy se encuentra encarcelado en el penal de Bagua Grande, al mismo tiempo que sigue vigente la orden de captura para otros 15 comuneros.

"Paradójicamente y a pesar de que somos indígenas posesionarios, milenarios de nuestros terrenos venimos siendo declarados como 'usurpadores' de los terrenos que por tal motivo, es decir por defender nuestros derechos territoriales, nuestra integridad física, la tranquilidad y paz comunal y social. Nuestras familias se sienten desprotegidas frente a los procesos judiciales y las leyes nacionales (Código Civil) e internacionales (Convenio 169 de la OIT) porque

son violados constantemente por los Magistrados de la zona." (Documento de campaña de AIDESEP).

Estrategias nacionales, Áreas Naturales y Territorios Indígenas

El estado peruano ha establecido 6 Zonas Reservadas con un total de 6 millones de hectáreas en la Amazonía peruana, las que, en su mayor parte, se sobreponen al territorio titulado o tradicional de los pueblos indígenas.

Estas zonas, de acuerdo a la Ley de Áreas Naturales Protegidas, se establecen por reunir las condiciones para ser consideradas como área natural protegida (ANP) en alguna de las categorías existentes aunque, en algunos casos, corresponden a compromisos internacionales del Estado.

Una de estas Zona Reservadas, llamada Gueppi, abarca los distritos de Putumayo, Torres Causano y Napo, e incluye en su ámbito las tierras de las comunidades indígenas *secoyas*, *quechuas* y *huitotos* de la FECONAFROPU. Otra, la de Santiago Komaina, incluye 52 comunidades tituladas de los pueblos aguaruna y huambisa.

A pesar que el país ha suscrito hace más de seis años el Convenio 169 de la OIT, que prescribe la consulta y la participación de los pueblos indígenas en todas las actividades que atañen a sus territorios y a su futuro como pueblos, sin embargo, las comunidades indígenas que se encuentran incluidas en estas áreas, no han sido consultadas por el Estado para disponer sus tierras como áreas protegidas bajo supervisión y administración estatal si no cuando ya estaban establecidas por Ley.

Las organizaciones de los pueblos indígenas involucrados en estas Zonas Reservadas, han expresado la vigencia del derecho constitucional a la propiedad de la tierra, su administración y uso autónomo por parte de las comunidades indígenas.

Para subsanar el proceso, el INRENA está gestionando el financiamiento con fondos GEF a través del Banco Mundial para el proyecto "Co-manejo indígena de Áreas Naturales Protegidas": el proyecto plantea como objetivo el de conducir proyectos específicos para el establecimiento de las 5 áreas naturales protegidas en la Amazonía con participación de la población indígena de la zona, para delinear un futuro viable para la misma.

La propuesta incluye la capacitación local en el manejo apropiado de los recursos del área y los propios planes de manejo, conservación y desarrollo del área. Además, la Ley de Areas Naturales Protegidas establece que una Zona Reservada requiere la realización de estudios complementarios para determinar la categoría más adecuada y definitiva a los fines de la conservación, su condición legal, finalidad y usos permitidos. Para estos fines, el Esta-

do constituyó una Comisión Técnica Multisectorial encargada de la formulación de la propuesta de ordenamiento territorial para estas cinco zonas, que debe ajustarse a una planificación participativa con la población local.

Las propuestas indígenas son Reservas Comunales que les permitan administrar y controlar los recursos naturales del área en conformidad con su saber tradicional.

En cualquier caso contrasta la celeridad del establecimiento de estas Reservas, que responden a una estrategia estatal, con la lentitud de las áreas solicitadas por las organizaciones indígenas dentro de sus propias estrategias territoriales.

Destrucción de los bosques y población indígena no contactada de Madre de Dios

Desde el mes de octubre de 1999, el departamento de Madre de Dios se ha visto convulsionado por los escandalosos acontecimientos sucedidos en el sector maderero, que obligaron al Gobierno central a declarar el Estado de emergencia en la provincia maderera más importante del departamento: el Tahuamanu, en cuyas áreas más remotas vive la población indígena en aislamiento.

El conflicto tuvo su origen cuando la Dirección Regional Agraria dio preferencia a un sector poderoso de la industria maderera local asociado con una transnacional norteamericana, otorgándoles grandes extensiones forestales en zonas no permitidas para la extracción, a cambio de apoyo económico para financiar la campaña electoral de funcionarios de la administración agraria que postulaban a las municipalidades de la provincia.

Estos contratos afectaron a otro poderoso sector maderero, también interesado, el cual presentó denuncias ante las autoridades del gobierno central sobre estos contratos irregulares que ya habían causado una deforestación de 500 mil hectáreas en apenas un año desde la apertura de estas nuevas áreas a la extracción maderera.

En lo que sería la deforestacion más grande que se ha cometido en el país, durante el año 1998 se otorgaron en la provincia de Tahuamanu 217 contratos ilegales, por una extensión de un millón de hectáreas. Los extractores ilegales, con el objetivo de sacar la mayor cantidad de madera, no dudaron en abrir una carretera de mas de siete metros de ancho y 180 kilómetros de longitud utilizando maquinaria pesada.

Cálculos preliminares señalan que de esta zona se extrajeron varias decenas de millones de pies tablares de madera, lo que representa cientos de millones de dólares de ganancias.

Al conocerse que estas empresas mantenían gente armada trabajando como capataces en sus campos de operaciones, el Gobierno declaró en Estado de Emergencia a la provincia y se movilizaron tropas del ejército para mantener el orden. Posteriormente el Gobierno, decretó la suspensión de todas las actividades forestales en la provincia, cesó en sus funciones al Director Regional Agrario y al Presidente del CTAR (gobierno regional), muy ligado a uno de los principales asesores del Presidente de la República, quien fue también sindicado de estar involucrado en estas acciones ilícitas de otorgamiento de grandes concesiones forestales en zonas no autorizadas y se dio inicio a una investigación para determinar otros responsables.

La paralización ha generado un impacto negativo en la mayoría de la población de la provincia, conformada por pequeños extractores dedicados a la actividad maderera como principal fuente de manutención de sus familias, exigiendo al gobierno la normalización de la actividad de madera bajo un régimen que otorgue prioridad en los contratos forestales a los oriundos del lugar, rechazando el ingreso de las empresas transnacionales y obligando que los recursos sean extraídos en forma planificada y racional, ante el temor de que la suspensión fuera una estrategia preparatoria para iniciar la subasta pública de grandes concesiones a las empresas extranjeras.

FENAMAD (la Federación Indígena local), había expresado meses atrás su preocupación por el arrasamiento maderero en la cuenca de Las Piedras, en la provincia de Tahuamanu, y advirtió en los foros y medios de comunicación local que de continuarse con este ritmo acelerado y descontrolado de extracción, se estaría cercando a la población indígena en aislamiento y que, en ese caso, sus vidas estarían en peligro por el contagio de enfermedades que portan los foráneos.

Al no recibirse ninguna respuesta positiva por parte de las autoridades locales, FENAMAD decidió alertar a la opinión pública nacional y a las entidades de solidaridad internacional, sobre el inminente peligro en que se encontraban los indígenas aislados. Se inició una campaña intensa para sensibilizar a la población local en el tema, lográndose conseguir el respaldo y la solidaridad de las instituciones privadas y la población de Madre de Dios.

FENAMAD planteó la propuesta para que se establezca a la cuenca del río Las Piedras como zona de estudio para determinar el área donde viven los indígenas aislados e iniciar las gestiones para establecer una Reserva Territorial en favor de estos pueblos. Esta carta fue suscrita por muchas instituciones de la región y fue dirigida a las entidades del Gobierno central, al Ministro de Agricultura, INRENA, Defensoría del Pueblo y la Comisión de DDHH de Congreso de República.

No ha habido respuestas de estas entidades, pero se sabe que la paralización de las actividades madereras en la zona, ordenada por el Gobierno Central, obedece también a la presión que ha ejercido FENAMAD a través de su campaña por la defensa de la vida y del territorio de los indígenas aislados (o no contactados).

Hasta el fin del año 99 continúa latente la convulsión social por la protesta del gremio maderero ocasionada por la decisión gubernamental de suspender las actividades de extracción de madera fina en las provincias de mayor importancia forestal en el departamento.

Las investigaciones aun no han obtenido resultados y se entiende que no se presentarán hasta después de las elecciones generales, con el propósito de evitar las críticas de los partidos opositores, al encontrarse responsabilidades en los funcionarios del gobierno.

Esta situación de espera también sigue afectando a la seguridad de los indígenas aislados, pues las autoridades tampoco han respondido a la propuesta de delimitación territorial a favor de estos pueblos, a pesar que FENAMAD fundamentó la urgencia de las medidas solicitadas.

Ante este silencio de la administración, una comisión de FENAMAD ha viajado a Estados Unidos para hacer llegar su voz reclamando ante organismos internacionales. En este sentido fueron visitados la Comisión Interamericana de Derechos Humanos de la OEA, el Banco Interamericano de Desarrollo (BID), que financió la Zonificación Económica y Ecológica de Madre de Dios, la Secretaría de Estado del Gobierno Norteamericano, para que intermedie con las autoridades peruanas a favor de la protección de los derechos de los hermanos en aislamiento y la Oficina de Derechos Humanos y de Pueblos Indígenas de la ONU para solicitar su respaldo a la defensa de los indígenas en aislamiento, en base a la aplicación de los compromisos y convenios internacionales suscritos por el Estado peruano.

La campaña a empezado a dar resultados, el 3 de mayo del 2000, FENAMAD suscribió un Convenio con la Dirección Subregional Agraria de Madre de Dios, para dar inicio a las actividades para el estudio del área que usan los pueblos indígenas en aislamiento en las cuencas de los ríos Las Piedras y su futura determinación como Reserva Territorial a favor de estos pueblos.

Minería en la sierra, petróleo en la selva

Los derechos reservados por el Estado sobre los recursos naturales ubicados en las tierras indígenas, tanto los superficiales (suelos forestales) como los

del subsuelo, se han convertido en la principal amenaza para el pacífico disfrute de los derechos indígenas.

La concepción de un derecho eminente motivado y fundamentado en la soberanía ha devenido en una concepción dominical que permite al Estado disponer a su arbitrio de los recursos indígenas.

Junto al caso de la madera, que hemos visto arriba, los casos de la minería, en la sierra y el petróleo en la selva, son problemas que impiden a los indígenas ejercer con libertad el pleno ejercicio de sus derechos territoriales.

De 4 millones de hectáreas bajo concesión minera se ha pasado, en 1999, a 23 millones. Este vertiginoso incremento de la minería se produce en gran parte sobre tierras indígenas de las Comunidades Campesinas. En efecto, de las 5.680 Comunidades reconocidas, 3.500 coexisten con concesiones mineras. Las labores mineras comprometen el agua, la tierra y la biodiversidad, poniendo en general en peligro todas las actividades tradicionales. Las Comunidades afectadas por la minería se han organizado para afrontar los problemas, principalmente los que se originan en los inequitativos términos de la servidumbre minera regulados por el artículo 7 de la Ley de Tierras.

En 1999 ascienden a 24 millones las hectáreas de tierras amazónicas concedidas a empresas petroleras en contratos de exploración y explotación. Todas ellas inciden sobre territorios indígenas, titulados u ocupados de manera tradicional. En todo el régimen jurídico de hidrocarburos no se contempla, sin embargo, norma alguna que proteja los derechos territoriales de las comunidades indígenas de la selva. La propuesta de AIDESEP para la regulación de las operaciones petroleras en territorios indígenas sentaron en la mesa de negociaciones al gobierno, las empresas y los representantes indígenas. La frustración de esta última iniciativa por incumplimiento de los acuerdos de la agenda por parte del Estado, da muestras de la debilidad de la voluntad política con que el Estado asume los compromisos con los pueblos indígenas.

Hacia la asimilación: borrando huellas

Los intentos de desactivar los mecanismos de sobrevivencia y continuidad histórica de los pueblos indígenas no se reducen a la inseguridad territorial. La Administración pública de los sectores con programas sociales o de desarrollo inciden de una manera sistemática sobre aspectos de la autonomía y la cultura indígena. Preceptos de rango constitucional (por ser objeto de tratados vinculantes) como la consulta previa o la participación en la conducción de los servicios públicos no son considerados por las autoridades sectoriales con objetivos políticos poco consistentes con la realidad indígena.

Respecto al acceso a puestos administrativos en sectores muy sensibles a la identidad y la cultura, como son los de salud y educación, el retroceso ha sido muy evidente en el año 1999. Normas generales (como la posesión de títulos y otras) se aplican a los aspirantes o técnicos indígenas para obstaculizar el ejercicio de su profesión. De esta manera un porcentaje creciente de los profesores de las comunidades indígenas son mestizos con desconocimiento y prejuicios contra el idioma y la cultura indígena. Esta política viene siendo aplicada incluso en los niveles de educación inicial.

Del mismo modo, durante el año 1999, se han recibido diversas señales de alarma en las organizaciones nacionales por la hostilización contra los técnicos sanitarios indígenas. Programas coactivos como el del control de natalidad, que concentra un alto porcentaje del presupuesto rural del sector, han sido rechazados por estos técnicos por la hostilidad con que han sido recibidos por las comunidades. A las quejas por la carencia de insumos básicos en temas gravitantes como la *leishmaniasis*, las afecciones respiratorias o gastrointestinales se suman casos denunciados ante la Defensoría de esterilizaciones no solicitadas y casos de muerte por deficiencias en la aplicación de los programas de esterilización. La respuesta política ha sido la de revisar la situación administrativa de todos los técnicos indígenas en servicio. Todas las plazas están siendo adjudicadas a personal mestizo y los técnicos sanitarios indígenas intitulados están siendo amenazados de despido en varias regiones del país.

Los múltiples programas de apoyo social, que en la práctica han relevado en su rol a las municipalidades, se vienen diseñando de manera que resulta sospechosa para muchos dirigentes indígenas. Por un lado, el paquete promocional (agua, luz, letrinas y antena parabólica) obliga a concentraciones lineales de las comunidades anteriormente dispersas que multiplican de esta manera sus problemas sociales y sanitarios. Las chacras quedan cada vez más alejadas y la subsistencia comienza a depender, en un grado considerable, del apoyo alimentario estatal, dueño además de los mensajes transmitidos por los canales de televisión que llegan a las comunidades. Por otro lado, existen fundadas sospechas de que por tratarse de zonas alejadas y de difícil control ciudadano, las obras ejecutadas presupuestalmente no coincidan con los gastos reales de tal manera que la ayuda social pueda estar facilitando el financiamiento de otros operativos políticos. Muchas organizaciones reclaman que se comparen los costos reales con los ejecutados en programas masivos como el de letrinificación.

540

En el lado positivo, al final del año ha sido aprobada la Universidad Indígena de la Amazonía, una antigua lucha de las organizaciones indígenas para aprovechar las instalaciones dejadas por el ILV.

Concertaciones y frustraciones

El año 1999, como año pre-electoral, ha sido prolijo en la apertura de espacios de concertación.

Dos proyectos oficiales de Ley Indígena fueron presentados por congresistas del oficialismo. Si bien no tuvieron un desarrollo posterior, provocaron la iniciativa de la Coordinadora Indígena (COPPIP) para estructurar participativamente una propuesta propia que está siendo consultada y perfeccionada por las bases del movimiento indígena.

La creación de una Comisión de Asuntos Indígenas en el Congreso, abrió también una puerta a la esperanza de poder contar con un instrumento especializado para la recepción de las iniciativas legales indígenas. La lucha por la presidencia de la Comisión entre congresistas del oficialismo frustró su instalación y hasta la fecha no opera.

Otras iniciativas puestas a consulta, además de las mencionadas del INRENA para el programa de Áreas Naturales y la frustrada concertación sobre el tema petrolero, han sido las Leyes de Acceso a Recursos Genéticos y la de Protección del Conocimiento Indígena, temas de la mayor importancia pero que las prisas del organismo impulsor (el INDECOPI) por el prurito de ser el pionero en la región, obligan a tratarlos de una manera inadecuada que puede traer consecuencias sobre su legitimidad y aceptación posterior.

En el ejecutivo, tal vez lo más significativo haya sido la creación de un organismo especializado dentro del PROMUDEH (Ministerio de la Mujer y de Promoción). Tampoco ha efectuado acciones de interés hasta el momento. En cualquier caso, la desactivación del Instituto Indigenista, muy ineficaz pero con autonomía, no resulta compensada por este tipo de organismos que dependen de oficinas de cuarto nivel en la estructura estatal.

El poder judicial no ha hecho esfuerzo alguno por adaptar a la nueva condición pluricultural del país sus sentencias y argumentos. La aplicación de las normas comunes, principalmente del derecho penal, y la nueva potestad discrecional de los jueces en los juicios sumarios (la mayoría de los actividades), junto a prejuicios discriminatorios y a una mayor casuística por la frecuencia de los choques entre indígenas y no indígenas en las fronteras de la colonización, están causando severos problemas de encarcelamientos, órdenes de captura y otras incomodidades que afectan la tranquilidad, la identidad y la dignidad de los comuneros indígenas.

541

La gran cantidad de fiscales y jueces provisionales convierte su situación en muy inestable y dependiente de manera que la desconfianza en el poder judicial está generalizada en el país (siendo el poder público de menor credibilidad en las encuestas, entre 18% y 21 %) por asumirse que actúa bajo criterios ordenados por el ejecutivo.

El problema pone de relieve la urgencia de desarrollar el artículo 149 de la Constitución que reconoce la jurisdicción indígena y la amplia aplicabilidad del derecho consuetudinario. Lejos de prestar atención a esta norma, la propuesta gubernamental es la de crear "conciliadores en equidad" lo cual, una vez más, es una solución disfuncional desde el punto de vista de la autonomía indígena y de sus aspiraciones a una administración de justicia imparcial y guiada por criterios de imparcialidad y no discriminación.

Reunión Global de Mujeres Indígenas en Lima

Las mujeres indígenas del mundo nos reunimos del 24 al 27 de Noviembre de 1999 en Lima, Perú para participar en el Taller Internacional "Mujeres Indígenas frente al Nuevo Milenio". Intercambiamos experiencias que venimos desarrollando en nuestras localidades, países y regiones y al mismo tiempo reflexionamos sobre los avances y limitaciones del proceso desarrollado para lograr nuestros derechos como mujeres indígenas. Así mismo para formular estrategias de trabajo y acción para el nuevo milenio.

Debido a las pocas oportunidades que tenemos para encontrarnos tuvimos una agenda recargada, sin embargo nos organizamos para alcanzar los objetivos del taller, es decir establecimos una comunicación entre mujeres líderes indígenas del Perú y del mundo para discutir y analizar juntas temas relacionados a mujeres indígenas y planificar acciones comunes promoviendo nuestra participación en foros continentales e internacionales.

El logro mayor ha sido la construcción de un espacio de encuentro propio para mujeres líderes indígenas del mundo, sobre todo porque ha sido un encuentro convocado desde el hemisferio Sur por mujeres indígenas. Este encuentro ha sido un espacio privilegiado de interlocución pluridireccional para nosotras, posibilitando el diálogo norte-sur, sur-sur y norte-norte.

Durante la evaluación del Taller, las mujeres peruanas coincidimos en que "el haber compartido nuestras vivencias como mujeres indígenas, con las hermanas de otros países, nos da mayor fuerza para continuar".

Durante estos 4 días de trabajo, hemos obtenido resultados múltiples: propuestas viables, producto de los trabajos de las comisiones y de la ple-

narias. Acá vale subrayar el proyecto que surgió de la comisión Beijing+5, concretizando la idea de organizar un Caucus de Mujeres Indígenas en el mes de junio, 2000, en Nueva York, anterior a las conferencias de las ONGs y de los Estados. Para coordinar la realización de este evento y buscar el financiamiento necesario, hemos delegado a la representante de Asuntos Internacionales de la Asamblea de las Primeras Naciones de Canadá –APN, mandando una carta al Gran Jefe de la APN demandando su apoyo para que ella pueda asumir este rol a tiempo completo, lo que ha sido aceptado.

También, hemos elaborado la Declaración de Lima firmada por las 18 integrantes del grupo internacional y el Pronunciamiento de las Mujeres Indígenas del Perú contra la discriminación y el racismo, al cual se han adherido las mujeres del grupo internacional. Este Pronunciamiento nos servirá para impulsar una campaña de sensibilización contra las distintas formas de discriminación y racismo que sufrimos las mujeres indígenas del Perú y del mundo.

Queremos resaltar otro logro importante, fruto de este acercamiento entre nosotras, la creación de la Red Internacional de Mujeres Indígenas. Es a través de nuestra Red que difundiremos los resultados obtenidos durante este Taller Internacional y que intercambiaremos estrategias de participación y de acción en los próximos eventos continentales e internacionales. Durante el Caucus de Mujeres Indígenas que planeamos realizar en junio próximo, aprovecharemos este espacio para consolidar nuestra Red Internacional y desarrollar sus acciones futuras.

El reto que tenemos ahora como Mujeres Indígenas unidas del mundo es encontrar los medios necesarios para hacer operativas nuestras propuestas y posibilitar otros encuentros de este tipo en este Nuevo Milenio.

BOLIVIA

1999 ha sido un año más de vana espera para que les sean definitivamente consolidados los derechos territoriales a los pueblos indígenas de Bolivia. El proceso de saneamiento y titulación de las tierras indígenas no avanza, presentando pocos resultados al finalizar el año: hasta diciembre de 1999, de más de 30 Tierras Comunitarias de Origen (TCO) demandadas por cerca de 11.750 millones de hectáreas, que en 1996 la ley ordenó titular en un plazo de10 meses, habían sido tituladas menos de 660 mil hás. en 4 áreas pertenecientes al pueblo ayoreo y un polígono del territorio guarayo, de cinco que tiene en total.

La aprobación por el Instituto Nacional de Reforma Agraria (INRA) de unos manuales para verificar los derechos de terceros asentados en tierras indígenas y la adopción por el Viceministerio de Asuntos Indígenas y Pueblos Originarios (VAIPO) de una guía metodológica para medir las necesidades de titulación a las comunidades, sin ninguna consulta y en clara contradicción a los derechos indígenas conquistados, casi han paralizado los procesos de saneamiento y titulación.

Por otro lado, el Director Nacional del INRA expidió la Resolución Administrativa 098/99 regulando un procedimiento extralegal para declarar tierras fiscales disponibles para concesiones y el Gobierno Nacional promulgó el Decreto Supremo 25532 conviertiendo las explotaciones de productos forestales no maderables al régimen de concesiones a 40 años renovables.

Pero el Gobierno no sólo adopta medidas en contravía de los derechos indígenas. También se ha manifestado con desidia para ejecutar decisiones adoptadas por las propias instituciones de reforma agraria para salvaguardar los territorios indígenas. No cumple los acuerdos a que llega con las organizaciones, como la expedición de un nuevo reglamento de la Ley INRA, que fue consensuado en la Comisión Agraria Nacional durante más de un año de discusiones entre el Gobierno y representantes de los sectores agrarios. Por último, tampoco cumple con las decisiones generadas en organismos internacionales, como es el informe emitido por el Comité de Expertos de la Oficina Internacional del Trabajo, con motivo de las 27 concesiones forestales otorgadas aparentemente en forma ilegal por la Superintendencia Forestal en sobreposición con 8 Tierras Comunitarias de Origen.

Todo esto sólo parece explicarse como parte de las políticas de promoción para la inversión extranjera y la explotación de recursos naturales, para lo cual los territorios indígenas son estratégicos.

Avances del saneamiento de las Tierras Comunitarias de Origen

Pasados los tres primeros años de promulgada la Ley 1715 (octubre de 1996), los pocos avances en materia de titulación que se pueden contabilizar, deben tomarse con benenficio de inventario. La reciente titulación de un polígono de cinco que conforman el territorio del pueblo guarayo y cuatro tierras comunitarias del pueblo ayoreo, convendría señalarlas como ejemplos de procesos que ojalá no vuelvan a repetirse.

Titulación del Polígono 1 del territorio guarayo

Recién en diciembre se tituló una parte del territorio indígena guarayo con una superficie de 413.000 has aproximadamente. Este proceso se vio afecta-

do, como el de otras demandas territoriales indígenas, por los lazos políticos existentes entre autoridades estatales y "terceros" ubicados al interior del territorio. En un primer momento, el INRA entregó resoluciones preliminares de saneamiento con las que consolidaba a todos los terceros en el área saneada (todos ilegales), incluida una concesión forestal también ilegal ("Lago Verde"), provocando, además de una injusta reducción de superficie, un grave antecedente en la aplicación de normas legales relativas a derechos de los pueblos indígenas. El único argumento que adujo el INRA para justificar la medida se basaba en la importante cantidad de territorio "excedente" que quedaba para los indígenas contra la insignificante disminución que implicaba la consolidación de los terceros y la concesión, aunque a costa de sacrificar los principios más elementales del derecho agrario.

Un sector del pueblo guarayo se rebeló contra tal injustificada decisión y en un primer momento el Gobierno hizo oídos sordos a las reclamaciones, lo que derivó en un posterior bloqueo de caminos efectuado en el mes de julio en la carretera Santa Cruz-Trinidad por la comunidad de Yotaú. El INRA, a consecuencia del bloqueo, dio marcha atrás, y otorgó derechos sólo a un tercero, sin justificativo legal, disponiendo resoluciones de desalojo para cinco restantes. Respecto a la concesión forestal "Lago Verde", en virtud del arribo del informe del Comité de Expertos de la OIT, el INRA se abstuvo de consolidarla, dejándola sin embargo "pendiente" hasta la conclusión del saneamiento.

Hasta septiembre se conocía que el área a ser titulada rondaría las 500.000 hás. Sin embargo una última gestión de la Superintendencia Forestal ante el INRA hizo que esta cifra se redujera a 413.000 a previsión del reconocimiento provisional de un área de más de 80.000 hás. a un contrato de aprovechamiento forestal que se encuentra en litigio ante la Corte Suprema de Justicia.

Es evidente lo que apuntábamos arriba sobre la forma que tienen las instancias gubernamentales de aplicar los derechos indígenas cuando grandes intereses están de por medio: sólo las movilizaciones de las comunidades hicieron posible la aplicación efectiva de la Ley. Sin embargo, la sola "gestión" de un organismo estatal fue suficiente para restar 80.000 hás. de bosque a favor de sus legítimos dueños.

El Viceministerio de Asuntos Indígenas y Pueblos Originarios, en el Estudio de Necesidades Espaciales recomendó como superficie a titular 1.350.000 hás. sobre una demanda de 2.205.000 hás. Esta reducción cuantitativa se verá reflejada de hecho en la exclusión del área donde tienen asiento las comunidades, que está prácticamente invadida por terceros. Esto va a ocasionar que las áreas que finalmente sean tituladas, además de insuficientes para el desarrollo "con identidad" de este pueblo, queden alejadas en varias decenas de

kilómetros del lugar de asiento de sus propietarios, dificultándoles el acceso, uso y control efectivo del territorio y de su bosque nativo.

Titulación de los territorios del pueblo ayoreo

En 1990, el Proyecto Tierras Bajas del Este (PTBE) para desarrollo de la agroindustria, financiado por el Banco Mundial, destinó una partida denominada Componente Indígena para mitigar los efectos negativos sobre las poblaciones indígenas de la región. Al pueblo ayoreo le correspondió una partida de US$ 800.000, que durante cinco años fue malgastada en programas de corte asistencialista y no pocos gastos prebendarios y corruptos, mientras su territorio tradicional iba disminuyendo paulatinamente. En 1995, en convenio del PTBE, con la Central Ayorea Nativa del Oriente Boliviano (CANOB), instituciones estatales, la iglesia e instituciones de apoyo, se emprendió la preparación de lo que un año más tarde fue la demanda territorial Ayorea.

En la Marcha de 1996 el pueblo ayoreo presentó su demanda territorial que comprende cuatro áreas, la misma que fue admitida por la Ley Nº 1715 del INRA junto a las otras 15 demandas de los pueblos indígenas de Bolivia. Según la Ley, todas estas demandas debían titularse en el término de 10 meses.

En octubre de 1996, cuando se promulgó la Ley 1715, del Componente Indígena quedaban sólo US$ 200.000, los que se destinaron al proceso que debía llevarse a cabo para la titulación de las cuatro tierras demandadas. Para la ejecución del saneamiento se suscribió un convenio entre el PTBE y el INRA con el respaldo de la Central Ayorea y la Coordinadora de Pueblos Etnicos de Santa Cruz (CPESC), que debía finalizar con la entrega de los títulos. Al cabo de un año, en la presentación del informe final, se constató que los trabajos de medición no cumplían las especificaciones técnicas y la información requerida no era precisa ni suficiente, pues los responsables del proyecto la habían perdido. El manejo irresponsable del proyecto, hacía necesario repetir la mayor parte del trabajo y los fondos se habían agotado.

Para entonces una nueva obra que impactaba el hábitat del pueblo ayoreo se había iniciado. La construcción del gasoducto Bolivia-Brasil destinó importantes partidas para mitigar los daños a las comunidades y, con estos recursos, el pueblo ayoreo decidió emprender de nuevo el proceso hacia la titulación de su territorio. A fines de 1998 se suscribió un segundo convenio interinstitucional entre el Plan de Desarrollo de los Pueblos Indígenas (PDPI) que administraba los fondos de compensación del gasoducto, la Confederación de Pueblos Indígenas de Bolivia - CIDOB, la Central Ayorea y el INRA, el que hizo posible la finalización del saneamiento.

Antes de la expedición de los títulos fue necesario, sin embargo, presionar al VAIPO para que recomendara la totalidad del área demandada, pues pretendía recortarla a pesar de que se encontraba en posesión de las comunidades y no había presencia de terceros. Sólo bajo amenazas de movilización, el VAIPO recomendó la titulación total del territorio ayoreo.

Entre octubre y diciembre del año 99, se entregaron los 4 títulos de propiedad para las comunidades Tobité, Santa Teresita, Rincón del Tigre y Zapocó, con una extensión total de 244.736 hás.

Medidas administrativas que dificultan el proceso de saneamiento

El proceso de saneamiento de las tierras comunitarias de origen, definido en el reglamento de la Ley INRA, es en sí mismo un obstáculo para que los pueblos indígenas sean plenos propietarios. El plazo de 10 meses que otorgó la Ley para la titulación, quedó convertido en 700 días por el Decreto Supremo 24784 que la reglamenta.

La Ley INRA estableció que las superficies demandadas por los pueblos indígenas podían ser modificadas de acuerdo con los resultados del saneamiento y la "identificación de necesidades y titulación". El reglamento de la Ley fue más allá. El proceso de saneamiento lo dividió en un sinnúmero de etapas y definió que las necesidades deben ser identificadas en un estudio, el cual debe recomendar las superficies a dotar a las comunidades tomando en debida consideración las características sociales, económicas y culturales de los pueblos demandantes y las calidades y capacidad de uso de las tierras demandadas, entre otros aspectos, y que el INRA dotará y titulará a las comunidades las superficies disponibles hasta satisfacer las necesidades espaciales de las comunidades, de acuerdo con la recomendación final del estudio.

Esta reglamentación ha dejado prácticamente la decisión de cuánta tierra se les titula a las comunidades indígenas en manos del Viceministerio de Asuntos Indígenas y Pueblos Originarios - VAIPO, órgano político que forma parte del Ministerio de Desarrollo Sostenible y Planificación, bajo cuya dependencia se tramitan y deciden también las concesiones forestales, mineras, de explotación de hidrocarburos, de investigación, de ecoturismo y demás.

Los estudios de necesidades espaciales se han convertido en uno de los cuellos de botella más difíciles de superar para las comunidades indígenas en el largo y espinoso camino emprendido para la titulación de sus tierras. El Viceministerio de Asuntos Indígenas, definió una metodología para realizar estos estudios y adoptó un modelo de cálculo matemático para determinar las necesidades espaciales de las comunidades, los cuales, además de ser extre-

madamente complicados, no toman en cuenta la realidad de los pueblos indígenas ni sus derechos territoriales.

Los estudios realizados para las primeras demandas territoriales, los territorios ayoreo, guarayo y chiquitano de Monte Verde, además de haber consumido grandes cantidades de dinero de la cooperación internacional, comportaron drásticas reducciones a las superficies demandadas. Estos sin embargo fueron posteriormente convalidados luego de una negociación presionada por las organizaciones que permitió el aumento de las extensiones recomendadas. En el caso de las tierras ayoreas finalmente se recomendó la totalidad de la extensión demandada, pues no existían disputas territoriales con terceros ni con otros intereses sobre estas tierras. En el caso del pueblo guarayo, de una demanda de 2.205.000 hás. el estudio recomendó sólo la titulación de 1'350.000 hás. (originalmente recomendaba titular 800.000 hás.). En el caso del territorio chiquitano de Monte Verde, el estudio final, recién aprobado, recomienda la titulación de 944.000 hás. de 1.060.000 hás. demandadas (en la primera versión recomendaba la titulación de 828.000 hás.).

Las organizaciones indígenas demandantes han rechazado los contenidos de los estudios, entre otras cosas, por la manipulación de datos de las comunidades para justificar las reducciones, por la fórmula utilizada para calcular las necesidades y por la indefinición de aspectos fundamentales como la ubicación de las áreas recomendadas para titulación, aspectos estos que no fueron corregidos en los casos mencionados. Especialmente han sido cuestionadas la guía metodológica y el modelo de cálculo de necesidades, por ser abiertamente contrarios a los derechos indígenas.

Gracias a la intervención de las agencias internacionales que financian los estudios, el Viceministerio aceptó hacer algunas modificaciones en acuerdo con las organizaciones indígenas. Un primer acuerdo para ello se llevó a cabo casi al finalizar el año 99, al mismo que no se ha dado cumplimiento hasta los primeros meses del año 2000. Los estudios de necesidades continúan siendo uno de los principales obstáculos para la titulación de las tierras demandadas por los indígenas.

De acuerdo con las experiencias que hasta el presente se tienen, puede decirse que el VAIPO ha instrumentalizado este estudio para reducir extensiones importantes de las áreas reclamadas por las comunidades, lo que viene a favorecer a muchos terceros ilegales que reclaman propiedad en las tierras comunitarias, a las concesiones forestales otorgadas también ilegalmente en 1997, y a liberar áreas de importancia estratégica para el aprovechamiento de recursos naturales para que el Estado las pueda otorgar en concesión. En los casos de Guarayos y Monte Verde, por ejemplo, las concesiones ocupan res-

pectivamente extensiones de 386.000 y 122.400 hás., las cuales podrían ser consolidadas por el INRA al finalizar el proceso de saneamiento, restando los mejores bosques al territorio indígena.

En idéntica dirección que la guía metodológica para la elaboración de los estudios por el VAIPO, la Dirección Nacional del INRA adoptó unos manuales para verificar el cumplimiento de los requisitos que la ley exige para consolidar las propiedades de terceros: el cumplimiento de la Función Económico Social de la propiedad (FES) y la ausencia de vicios de nulidad en los títulos o procesos agrarios en que fundan su derecho.

El manual para verificar la FES establece que cualquier clase de trabajo, por insignificante que sea, en una mínima proporción de la propiedad demandada, consolida a favor del particular demandante la totalidad del predio que demanda. El manual de nulidades, convierte en nulidades relativas, que se sanean con la FES, las que la Ley considera nulidades absolutas insaneables.

La aplicación de estos dos manuales implica que todas las propiedades reclamadas por terceros al interior de los territorios indígenas, de hasta 2.500 hás. de extensión, se consoliden a los terceros reclamantes, así se fundamenten en títulos y procesos falsos y no cumplan la función económico social.

Los manuales fueron aprobados por Resolución Administrativa del Director Nacional del INRA en el mes de diciembre, sin ninguna consulta previa a las organizaciones y a la Comisión Agraria Nacional, no obstante que existía un compromiso formal del INRA de someter a su consideración todas las normas técnicas.

Para evitar que gran parte del territorio Chiquitano de Monte Verde se perdiera a manos de terceros absolutamente ilegales, la organización demandante impugnó dichos manuales. Lo propio hicieron los demandantes del Territorio Indígena y Parque Natural Isiboro Sécure (TIPNIS) en el Departamento de Beni y del Territorio Indígena Multiétnico (TIM II) en el Departamento de Pando. Pero no obstante las impugnaciones, el INRA los continúa aplicando durante el saneamiento de otros territorios, con grave perjuicio para los derechos comunitarios.

Dos reuniones se han llevado a cabo para acordar entre las organizaciones y el INRA las modificaciones más importantes a los manuales, pero el INRA, al rescribir los manuales no las incorpora.

Con estos antecedentes, el proceso de saneamiento y titulación de TCO se viene adelantando a marchas forzadas y con grandes presiones de las comunidades para evitar la pérdida de sus territorios. En algunos casos, en los que las comunidades no cuentan con organizaciones fuertes y una asesoría especializada para el seguimiento a los procesos, los resultados han sido desastrosos.

Los territorios pertenecientes a los pueblos weenhayek y tapieté, son ejemplo de ello. De las 194.000 hectáreas del territorio wehnayek, reconocido mediante Decreto Supremo en el año 1992, luego de las pericias de campo, el área se redujo a 13 mil hectáreas. El territorio tapieté de 51.366 hás. demandadas, luego de las pericias de campo quedaron para consolidación aproximadamente 12.000 hás.

Nuevas normas para otorgar concesiones que amenazan los territorios indígenas

El Gobierno busca afanosamente entregar en concesiones grandes extensiones de bosque sin legalizar primero los derechos de indígenas y campesinas sobre la tierra, derechos fundamentales que corren el riesgo de resultar inaplicados. La Dirección Nacional del INRA dictó la Resolución Administrativa 098/99 que permite declarar tierras fiscales disponibles para concesiones sin que culmine el proceso de saneamiento de la propiedad agraria y el Gobierno expidió el Decreto Supremo 25532 que convierte en concesiones a 40 años las explotaciones de goma y castaña que realizan las empresas denominadas barracas en el norte amazónico del país.

Ambas medidas se complementan de manera perfecta. Para que puedan otorgarse las concesiones a que se refiere el Decreto Supremo, es preciso que las tierras hayan sido declaradas fiscales, lo cual, de acuerdo con la Ley INRA, sólo es procedente al finalizar el saneamiento de la propiedad agraria. Anticipando este obstáculo, el INRA había expidido la Resolución 098 que permite declararlas como tales en tan solo 60 días y sin ningún saneamiento.

Resolución 098/99 del INRA

Uno de los atentados más graves que se ha perpetrado en contra de los derechos de los Pueblos Indígenas del Chaco, Oriente y la Amazonia boliviana es la expedición por parte del INRA de la resolución 098/99 en julio. Esta resolución, que durante todo 1998 el gobierno intentó promulgar por la vía del Decreto Supremo, ha venido a establecer un procedimiento extralegal y muy sumario para la determinación de Tierras Fiscales Disponibles, a los fines de otorgarlas en concesión forestal, de investigación, ecoturismo o conservación de la biodiversidad a empresas particulares, ONG, etc. Para ello elude el proceso de saneamiento de la propiedad agraria, fundamental requisito establecido por la Ley INRA para llegar a la determinación del carácter fiscal de tierras agrarias.

Los más afectados con esta disposición son los pueblos indígenas, pues el procedimiento permite que sus tierras aún no tituladas sean declaradas como

fiscales disponibles para concesiones, al no contemplar ninguna posibilidad para que intervengan y defiendan sus derechos. En efecto, del área a declararse disponible para concesiones, sólo se excluyen las tierras que estuvieren "*debidamente reconocidas*", término que el Gobierno ha interpretado a propósito de las conversiones forestales, como las que cuentan con títulos ejecutoriales definitivos. No se excluyen ni siquiera las tierras que actualmente se encuentran en proceso de saneamiento, lo cual es inexplicable si se toma en cuenta que áreas sujetas a las otras modalidades de saneamiento sí se excluyen.

Si esta resolución permite que las tierras en proceso de saneamiento sean declaradas como fiscales disponibles para concesiones, con mayor razón deja al margen de cualquier posibilidad de reconocimiento tierras indígenas que aún no han sido demandadas. El procedimiento aprobado por el INRA no prevé la exclusión de áreas utilizadas por pueblos o comunidades indígenas que aún no han sido demandadas. Tampoco se admiten oposiciones por esta causa. Las comunidades indígenas y campesinas que se crean con derechos sobre las tierras tienen un plazo de 10 días para intervenir debiendo presentar al efecto un rosario de acreditaciones y certificaciones de autoridades que incluso pueden tener intereses en que las áreas sean declaradas disponibles para concesiones.

No existe, pues, ninguna disposición en el procedimiento aprobado por la Res. Adm. 098/99 que indique claramente que las tierras comunitarias de origen, sean las que fueren, reconocidas o no, con título ejecutorial o sin él, deberán excluirse del área a ser declarada como fiscal disponible para concesiones. Todo lo contrario, el procedimiento parece haber sido minuciosamente redactado para limitar los derechos de los indígenas sobre sus tierras comunitarias de origen, sobre las que aún existen los bosques de interés, a fin de que éstas tierras puedan otorgarse en concesión.

Así, los derechos agrarios que son derechos fundamentales y tienen preferencia en la legislación agraria y forestal frente a las concesiones, terminan siendo injustificadamente discriminados al tener que someterse al proceso de saneamiento, que es muy largo y costoso, al cabo del cual se determinan las tierras disponibles para dotación, mientras en un trámite ágil y expeditivo, sin saneamiento previo, se determinan tierras fiscales disponibles para concesiones, como si éstas fueran preferentes. Si se tiene en cuenta que, por disposición de la Ley 1715, las solicitudes de los campesinos sin tierra y de los que la poseen insuficientemente (poblaciones de las orillas del Lago Titicaca en posesión de surcos o mini surcos ya improductivos, tierras muertas por efecto de minería como las del norte de Potosí o los valles superpoblados de

Chuquisaca y Cochabamaba) no se pueden admitir ni tramitar hasta que culmine el saneamiento de la propiedad agraria en cada área, resulta completamente injusto que las solicitudes de concesiones forestales sí se puedan realizar y satisfacer con un trámite preferente, como si fueran portadoras de mejor derecho.

La aplicación de esta resolución no se hizo esperar. En agosto de 1999, el INRA emitió 10 certificaciones de tierras fiscales en el Bosque Seco Chiquitano por una superficie de más de 800.000 hás. para explotación forestal. El Bosque Seco Chiquitano es un ecosistema frágil, el único en su especie que aún queda en Bolivia y uno de los pocos existentes en todo el mundo. Alberga una gran biodiversidad que ha sido fuente de subsistencia de los pueblos ayoreo y Chiquitano que durante siglos lo han utilizado sin deteriorarlo, por lo que forma parte de sus Tierras Comunitarias de Origen, que hasta ahora no han sido demandadas. Durante el proceso no fue posible la intervención de las comunidades debido a que las organizaciones sólo conocieron tal declaratoria cuando ya habían fenecido los plazos.

Las organizaciones indígenas y varios Diputados Nacionales, ante esta nueva violación de los derechos de las poblaciones indígenas y campesinas del país, interpusieron los recursos de nulidad y de inconstitucionalidad ante el Tribunal Constitucional. El recurso de nulidad fue negado en un fallo absolutamente infundado, pues, como el propio Tribunal lo reconoce en su Sentencia, no realizó ningún análisis del contenido de la resolución impugnada. Un recurso indirecto de inconstitucionalidad, interpuesto contra las resoluciones que declararon disponible el Bosque Seco Chiquitano, fue rechazado por el propio Instituto Nacional de Reforma Agraria, sin ninguna competencia para ello, y su decisión fue arbitrariamente ratificada por el Tribunal Constitucional obviando incluso los análisis de competencia. Un tercer recurso directo de inconstitucionalidad, interpuesto por los Diputados Nacionales, fue negado en un nuevo fallo carente del más mínimo análisis de las violaciones alegadas al estatuto constitucional. El Tribunal declaró válida la resolución impugnada basándose en afirmaciones o negaciones escuetas, dentro de las que cabe destacar que el Tribunal considera que los derechos agrarios de indígenas y campesinos no resultan vulnerados por que éstos se encuentran definidos en la Ley, asumiendo que la sola enunciación legal hace su cumplimiento.

Decreto Supremo 25538

En fecha 6 de octubre de 1999 el Presidente Hugo Banzer promulgó el decreto Nº 25538 por medio del cual se reconocen "*los establecimientos gomero*

castañeros denominados barracas como concesiones forestales de productos no maderables", con derecho de utilización exclusiva de los productos maderables. Este Decreto no sólo es contrario a las leyes Forestal y Agraria, sino que pone en riesgo el derecho a la titulación de las tierras indígenas y campesinas en toda la región del norte amazónico y les niega su derecho a la explotación de recursos forestales. Pero lo más grave aún es que el Decreto insinúa el reconocimiento del derecho a la titulación a los empresarios sobre las áreas explotadas, pretendiendo revivir los efectos de la legislación de fines del siglo pasado que fue abolida con la reforma agraria de 1953 y por las reformas adoptadas durante la década del 90 a la Constitución, y a los regímenes forestal y agrario.

En los departamentos que conforman la región noramazónica, Departamento de Pando y el norte de los departamentos de Beni y La Paz, se registra uno de los índices más altos de concentración de tierras en manos de los empresarios de la goma y la castaña quienes controlan más del 90% de las tierras con el respectivo acceso a los bosques y sus recursos forestales. Según reciente información del Director Nacional del INRA al Vicariato Apostólico de Pando, 240 barraqueros han solicitado un total de tres millones cuatrocientas mil hectáreas, que, con la aplicación del Decreto 25532 vendría a consolidar la excesiva concentración de tierras en pocas manos, a pesar de la prohibición del latifundio por norma expresa de la Constitución, dejando de lado el mandato que tienen las autoridades de precautelar y garantizar los derechos agrarios a indígenas y campesinos y eliminando las posibilidades de dotación a los sectores mayoritarios que no tienen tierras o las poseen insuficientemente.

Aunque el D.S. 25532 establece que las áreas que se encuentren superpuestas con tierras comunitarias de origen y comunidades campesinas, no podrán ser sometidas al proceso de conversión, es previsible que sucederá lo mismo que en el caso de las conversiones forestales de productos maderables, las cuales fueron aprobadas por la Superintendencia Forestal en 1997 bajo el argumento de que éstas no están "debidamente reconocidas". En el norte amazónico no se ha saneado ni un solo metro de tierra y solo recientemente, con las presiones y movilizaciones de las comunidades, el INRA se está viendo obligado a realizar promesas de saneamiento que no llegan a concretarse hasta la fecha.

Las explotaciones de goma y castaña se desarrollan en regiones ancestralmente habitadas por los pueblos indígenas araona, chácobo, esse Ejja, Pakawara, Tacana, Yaminawa, Machineri y Cavineño, que en la actualidad

cuentan con una población aproximada de 15.000 habitantes. Las comunidades campesinas suman más de 20 mil habitantes.

Los procesos de explotación de recursos naturales no maderables en esta región datan de aproximadamente 140 años. La explotación primero de la quina y luego del caucho o goma, ha significado la pérdida de la mayor parte de los territorios de los pueblos amazónicos, su reducción y su sometimiento a diferentes modalidades de dominación, pasando incluso por la esclavitud. En la actualidad las explotaciones se realizan por medio de recolectores asalariados temporales o a destajo, a los cuales se les paga por kilogramo de goma o caja de castaña a precios subvalorados por los compradores. El salario en cambio se paga regularmente en especie con bienes de consumo que distribuyen los mismos propietarios de las barracas a precisos sobreestimados.

La historia de los pueblos amazónicos es amarga con las industrias extractivas de goma, castaña y demás. Los que hoy constituyen el pueblo araona son sobrevivientes de dos familias que escaparon de los captores que les habían llevado a trabajar como esclavos en la explotación del caucho a principios del presente siglo. Para esa época su población era de 20.000 habitantes y en la actualidad sólo son 82 personas.

Las organizaciones indígenas y campesinas de la región, Central Indígena de la Región Amazónica de Bolivia – CIRABO, la Federación de Campesinos de Vaca Diez y la Confederación Sindical Unica de Trabajadores Campesinos de Bolivia, en un Voto Resolutivo hecho público el 14 de diciembre pasado, denunciaron "*el sistema de trabajo de semi-esclavitud en la que se debaten miles de familias del norte amazónico, situación que se ha dado y continúa actualmente al interior de las barracas, lugares donde se sigue desconociendo los derechos sociales pese a que los sistemas de semi-servidumbre fueron abolidos en las leyes de la República hace ya muchos años, y no obstante a ello se sigue brindando beneficios con el Decreto 25532 a quienes dicen llamarse empresarios.*" Por medio de varias declaraciones y movilizaciones han exigido al Gobierno Nacional la abrogatoria del decreto y, como medida de conciliación, han propuesto que éste no sea aplicado hasta tanto culmine el saneamiento de la propiedad agraria en la región.

Pero el INRA viene adelantando los trámites para declarar como tierras fiscales disponibles las áreas pretendidas por los barraqueros, en aplicación de la mencionada Resolución Administrativa 098/99, y seguramente la Superintendencia Forestal ha iniciado los trámites administrativos para las conversiones.

Como se observa, este nuevo decreto tiene un impacto desastroso puesto que las áreas tradicionales de recolección y caza de los pueblos indígenas de

aquellas zonas se sobreponen a las áreas pretendidas por los barraqueros, y el decreto las hace prevalecer en derecho a las de los indígenas nativos del lugar. Una nueva adaptación como la sufrida en 1997 por estos mismos pueblos y otros de la chiquitania cruceña y del bosque de chimanes, cuando se les arrebató más de 700.000 hás. de bosque para otorgarlas a empresas madereras.

El pronunciamiento de la OIT sobre las concesiones forestales en tierras indígenas

En los primeros meses de 1998 las organizaciones indígenas afectadas por la conversiones forestales superpuestas con territorios indígenas, representadas por la Confederación de Pueblos Indígenas de Bolivia - CIDOB, presentaron reclamación formal ante la OIT, con la idea de obtener de ésta, además de una respuesta consecuente a los principios inspiradores del Convenio 169 sobre Pueblos Indígenas, el apoyo en términos de presión hacia el Gobierno boliviano para que le diera vuelta atrás a las decisiones adoptadas.

Los argumentos de la reclamación se fundamentaron en la violación a los artículos 14 y 6 del Convenio, en cuanto, respectivamente, no se estableció la debida protección los derechos de propiedad y posesión de las tierras que ocupan y utilizan tradicionalmente las comunidades afectadas, y las medidas administrativas que aprobaron las concesiones superpuestas, no fueron debidamente consultadas.

Luego del estudio del caso por un Comité de Expertos, el Consejo de Administración aprobó su informe en marzo de 1999. Las recomendaciones finales que fueron aprobadas por el Consejo de Administración dejaron sentados dos principios importantes.

Por un lado, que el artículo 15 del Convenio debe ser interpretado en concordancia con los artículos 6 y 7 del mismo instrumento legal, por lo que el Gobierno debe velar porque las comunidades indígenas interesadas sean consultadas oportuna y adecuadamente sobre el alcance y las implicaciones de las actividades de explotación de recursos naturales. Por otro lado, no obstante que la regularización legal definitiva de los territorios está pendiente, y que los derechos otorgados a los Pueblos Indígenas van más allá de la mera consulta, recomendó al Gobierno que se realicen estudios de impacto ambiental, cultural, social y espiritual, conjuntamente con los pueblos concernidos, *antes* de autorizar las actividades de exploración y explotación de los recursos naturales en áreas ocupadas tradicionalmente por ellos y que, en la medida de lo posible, se defina su participación en los beneficios de las concesiones y su recepción de una indemnización equitativa por los daños que puedan sufrir con estas explotaciones.

La decisión representa para los pueblos indígenas de Bolivia un hito histórico y jurídico de gran significación. Sin embargo, la OIT omitió pronunciarse sobre la reclamación de fondo, que era la protección al derecho de propiedad y posesión sobre las tierras por lo que se podía esperar que recomendara la revocatoria de las concesiones en las áreas superpuestas con los territorios indígenas, en lugar de la consulta, los estudios de impactos, la participación en beneficios y las indemnizaciones por los daños causados. Por ésta última vía, más bien deja entrever que los territorios indígenas pueden ser afectados siempre que se cumpla con estos condicionantes. Ello es no obstante un gran avance, en el caso de comunidades que acepten la realización de dichas actividades de explotación en sus territorios por parte de terceros empresarios.

Pero el Gobierno boliviano ni siquiera ha dado indicios de llegar a acatar estas recomendaciones, y por el contrario se esfuerza en consolidar y extender las concesiones.

Modificación del Reglamento de la Ley INRA

Durante gran parte del año 1998 y hasta octubre de 1999, sesionó la denominada Comisión Técnica de la Comisión Agraria Nacional (CAN), en la formulación consensuada de un nuevo texto reglamentario de la Ley INRA para sustituir el Decreto Supremo 24784, que había sido inconsultamente adoptado por el anterior Gobierno, pocas horas antes de la entrega del mando en agosto de 1997.

La composición multisectorial de la Comisión Agraria Nacional (Estado, empresarios y organizaciones sociales del sector), hizo posible, por la vía del consenso, la obtención de importantes logros a favor del campesinado y los puebos indígenas que participaron en esta instancia.

Las modificaciones consensuadas en sede a este organismo técnico estaban orientadas a solucionar los problemas antes mencionados que amenazan con hacer desaparecer las tierras indígenas. Entre ellas, la reducción de los plazos procesales para el cumplimiento de las diferentes etapas del saneamiento; la expresa disposición de que el saneamiento de la propiedad agraria, la reversión y la expropiación, son los únicos procedimientos administrativos por los cuales se pueden identificar tierras fiscales en el país; y la definición de criterios para la verificación de la función económico social de la propiedad agraria que aleguen terceros durante el saneamiento de tierras indígenas y para la identificación de vicios de nulidad en los títulos o expedientes en que fundamenten sus derechos.

Como complemento a ésta última medida, se consensuó otra norma destinada a asegurar que grandes áreas de uso tradicional indígena reclamadas por

terceros, que fundan el cumplimiento de la Función Económico Social en actividades de conservación, ecoturismo, investigación o explotación forestal, tienen que acreditar autorización de la autoridad competente, expedida con anterioridad a la Resolución de Inmovilización del territorio indígena. Esta disposición es muy importante, si se tiene en cuenta que la simple presentación de planes o proyectos para la ejecución de esas actividades, están sirviendo en la actualidad para acceder a extensas áreas sin ningún derecho.

Se destaca también una disposición que posibilita impugnar el informe final de los Estudios de Necesidades Espaciales que realiza el Viceministerio de Asuntos Indígenas, lo cual puede ser una importante medida de control ante la innegable instrumentalización política de los Estudios que está haciendo este organismo, utilizándolos para reducir considerablemente las superficies a ser dotadas a los pueblos indígenas.

Pero el INRA se ha encargado de traicionar varios de los acuerdos obtenidos en la Comisión Agraria Nacional, entre ellos con la adopción de las medidas enunciadas para consolidar propiedades de terceros, y ha introducido un artículo no consensuado para el mismo fin, pues la promulgación del nuevo reglamento automáticamente dejaría sin efecto los manuales aprobados en diciembre.

El texto concertado para el nuevo reglamento fue entregado al Gobierno Nacional dos meses antes de finalizar el año 99 pero aún en los primeros meses del 2000 no ha sido promulgado como Decreto Supremo.

Conclusiones

Como se puede observar a través de esta reseña, la situación de los pueblos indígenas en Bolivia es particularmente difícil. Existe un marco legal con avances realmente significativos, pero la voluntad del Gobierno es realmente nula para aplicar lo previsto en esas normas, siquiera en un mínimo porcentaje, y las señales que se perciben en el horizonte respecto a un cambio de actitud son cada vez más obscuras. Más aún tomando en cuenta la ausencia de control jurisdiccional evidenciada en los procesos adelantados ante el Tribunal Constitucional.

La etapa organizativa de los años 80 y de luchas reivindicativas a partir de aquellas movilizaciones de la década del 90, hacían suponer que el último año de este lustro sería el del ejercicio de aquellos derechos conquistados. Sin embargo el gobierno, a tono con la tendencia continental de priorizar las grandes inversiones transnacionales, paulatina e indefectiblemente está contradiciendo aquella suposición. La realización de los derechos de las capas más vulnerables de la población, en este caso de los pueblos indígenas y campesi-

nos, es más que evidente que no forma parte del diseño estructural de exclusión social que está en vigencia en todo el continente.

Parece que, como en el 90 y en el 96, no queda para los indígenas bolivianos otra salida que recurrir a las acciones que le posibilitaron romper los cercos que el Estado les había tendido para frenar sus reivindicaciones sociales: una gran movilización nacional está en la mente de varias organizaciones indígenas y campesinas que piensan que sus derechos y demandas están verdaderamente muy lejos de materializarse.

BRASIL

En un contexto general de debilitamiento del poder ejecutivo federal, acontecieron varios eventos durante el año 1999 que apuntan a una nueva coyuntura desfavorable para los intereses indígenas del Brasil:

- La urgencia dada por el Congreso Nacional a la tramitación del Proyecto de Ley 1610 que reglamenta las actividades mineras en áreas indígenas;
- El atraso en la votación del Estatuto de los Pueblos Indígenas,
- La creación de una Comisión Parlamentaria de Investigación (CPI) para investigar la actuación de la FUNAI en el proceso de demarcación de tierras indígenas;
- El retomar, por parte de los políticos y militares, del discurso contra una supuesta internacionalización de la Amazonía, asociado a la actuación de las Organizaciones No-Gubernamentales (ONGs);
- La oposición de los políticos a la creación de los Distritos Sanitarios Especiales Indígenas (DSEIs) junto con organizaciones indígenas y ONGs;
- La creciente articulación de los parlamentarios de la llamada Bancada Amazónica, (grupo de parlamentarios que camuflados en un discurso de desarrollo para la región) en favor de los intereses mineros, agropecuarios y madereros que cada vez más intensifican su penetración en las tierras indígenas.

Este cuadro torna al momento bastante delicado para los pueblos indígenas del Brasil y apunta a tiempos difíciles, en un futuro donde nada se puede garantizar si la lucha de siglos por el derecho a la tierra y al mantenimiento de sus formas de vida según sus costumbres y tradiciones, va a terminar.

Tramitación de la ley de minería

La Constitución brasileña de 1988 establece una distinción jurídica entra la propiedad del suelo y del subsuelo. Los yacimientos minerales, por estar en el subsuelo son bienes de la Unión y su aprovechamiento es autorizado por la misma según la ley.

Todo esto abrió camino para el aprovechamiento de recursos minerales en Tierras Indígenas (TIs) que poseen el usufructo exclusivo de los indígenas, pero ese usufructo está relacionado apenas con las "riquezas naturales del suelo, de los ríos y de los lagos" y no con el uso del subsuelo. Este uso depende de la autorización del Congreso Nacional y es un derecho indígena el de participar y de ser oído en el proceso de concesiones de áreas de pesquisa. En este contexto, y dando relevancia al hecho de que gran parte de las riquezas minerales todavía existentes en el Brasil están hoy localizadas en tierras indígenas, las presiones para que se reglamente y se autoricen las exploraciones son cada vez mayores.

Hasta hoy, el proceso de reglamentación de las leyes referentes a la minería no fueron aprobadas y dentro de las varias propuestas que se están tramitando dentro del Congreso Nacional, existen algunos puntos que necesitan una atención especial para que se hagan valer los derechos que los indígenas consiguieron en la Constitución del 88, como:

- Limitación de la extensión del subsuelo explorable en una misma Tierra Indígena;
- Participación de la comunidad indígena en los resultados económicos provenientes de la explotación mineral;
- La libre utilización por parte de las Comunidades Indígenas de los recursos provenientes de la participación en los resultados de la explotación mineral;
- La obligatoriedad de la realización de un Estudio de Impacto Ambiental y, principalmente, la audiencia de las Comunidades Indígenas afectadas, o sea, que el Congreso Nacional sólo autorice la minería en Tierras Indígenas después de oír a las Comunidades Indígenas afectadas.

El aprovechamiento de los recursos minerales en Tierras Indígenas por terceros exigen, por lo tanto, estrategias y políticas de gobierno muy bien definidas, principalmente con respecto a la fiscalización, lo que no es posible de verse en la actual coyuntura brasileña. La referencia que se tiene hoy, la del "garimpo" ilegal y depredador, generó en muchas Tierras Indígenas muchos

problemas de salud, degradación social, pérdida de tierra productiva, contaminación de ríos y nacientes, como en el caso de los *yanomami*.

Es importante también resaltar que aunque los derechos indígenas se hagan valer, las comunidades deberán estar preparadas para lidiar con todas las alteraciones sociales y ambientales que los resultados de la participación económica de la exploración van a traer.

El Proyecto de Ley precisa todavía ser analizado por la Comisión de Constitución y Justicia para después ir al plenario del Congreso donde será votado. Una articulación de ONGs, juntamente con parlamentarios de oposición al gobierno, consiguieron el año pasado, atrasar el proceso de tramitación de la ley de minería dejándola obstruida hasta que el Estatuto de los Pueblos Indígenas sea aprobado.

Salud indígena

Después de muchos años de discusiones, fue reeditada en 1999 una medida provisoria (MP) para transferir las responsabilidades sobre la salud indígena de la FUNAI al Ministerio de Salud a través de la Fundación Nacional de la Salud (FUNASA).

En cumplimiento de la MP, deberá ser promulgado un decreto presidencial, estableciendo los principios y normas para la implantación y el funcionamiento de un sistema nacional de Distritos Sanitarios Especiales Indígenas (DSEIs).

La situación de la salud y las epidemias en las aldeas han empeorado bastante en los últimos años debido al contacto creciente de las sociedades indígenas con la sociedad externa, principalmente la población que habita en torno a las TIs. Esta vez, el cambio tiene fuerza de ley y propone un sistema de DSEIs con organismos propios, pre-indicados y buena parte de las actividades y cualidades atribuidos a ellos surgirán a través de una amplia discusión que implicó al Ministerio de Salud, la FUNAI, ONGs y las propias comunidades indígenas, a través de varios seminarios y conferencias.

Siendo así el nuevo modelo, la FUNASA nombra un "gestor" para acompañar el desarrollo del proyecto, dispone de los recursos y, supuestamente, acompaña y se responsabiliza por la calidad de la ejecución del proyecto. En algunas regiones en que el movimiento indígena está más organizado, o que existen instituciones serias involucradas, existen muchas acciones desarrolladas en el área de la salud, como en Roraima, en la región del Río Negro en el Parque Indígena de Xingu. Existen también articulaciones no gubernamentales para asumir la organización de los distritos lo que hace que, por lo tanto, exista alguna viabilidad para el modelo pretendido de resultados.

560

Entretanto, existen varias regiones del país donde no hay instituciones privadas calificadas que dispongan de relaciones acumuladas junto a las comunidades indígenas. Lo que consecuentemente, no otorgó condiciones de implementar servicios de salud, colocando en riesgo la viabilidad del modelo.

De cualquier forma, se debe considerar esta nueva política como una tentativa de mejorar la situación catastrófica en que se encontraba la salud indígena hasta el año 1999, pero es preciso acompañar los resultados para probar su eficacia.

Demarcación de tierras indígenas

Durante el año 1999 no hubo avances del Gobierno en el proceso de demarcación de tierras indígenas (TIs). Este atraso, ha causado un clima de tensión en varias partes del país, principalmente en el Estado de Roraima, cuya elite es conocida por el fuerte poder de movilizar a la población del estado contra los intereses indígenas. Ese poder de movilización viene de los tiempos de la demarcación de la Tierra Indígena Yanomami, cuyo proceso se inició en los años 80 pero recién se concretó en 1992. Las críticas del momento giran en torno a la demarcación de la Tierra Indígena Raposa do Sol, perteneciente a los indígenas *macuxi, wapixana, ingaricó* y *taurepang*. Los indígenas están pleiteando hace años para que su territorio sea demarcado en un área continua de 1.678.800 hectáreas.

Pero la elite de Roraima no está satisfecha con esta propuesta de la Fundación Nacional del Indio (FUNAI) e inició una fuerte campaña, junto a la población del estado, a fin de crear un sentimiento contrario al proceso de demarcación y a los pueblos indígenas de la región. Esta campaña ha preocupado también a los misioneros católicos, organizaciones indígenas (como el Consejo Indígena de Roraima-CIR) y las ONGs en general. El Gobernador del Estado, Neudo Campos, llegó incluso a amenazar con cerrar las 138 escuelas indígenas dentro de la Tierra Indígena Raposa-Serra do Sol, en caso de que el proceso de demarcación del área continua se concretice.

La campaña se está intensificando a partir del segundo semestre de 1999, con carteles colocados en las calles y muros de casas, con textos contra la FUNAI y ONGs. Se están anunciando también conflictos armados en la Región de Raposa Serra do Sol entre indígenas y propietarios y el atraso del gobierno federal en resolver de una vez por todas la demarcación sólo va a agravar la situación.

Comisión Parlamentaria de Investigación de la FUNAI

En mayo de 1999 fue instaurada en la Cámara de Diputados en Brasilia una Comisión Parlamentaria de Investigación (CPI) para investigar la actuación de la FUNAI en el proceso de demarcación de tierras indígenas.

Esta CPI está formada básicamente por parlamentarios de la llamada "Bancada Amazónica" y el proceso de los trabajos demostró a lo largo de 1999 que la FUNAI no sería específicamente el objeto de la Comisión. Pero en realidad, esa CPI es una tentativa de crear subsidios para sustentar una tesis absurda, de que las demarcaciones de TIs y el apoyo de algunas ONGs a algunas sociedades indígenas amenazan la soberanía nacional, y con eso, abren espacio para una tentativa de reducción de las tierras demarcadas.

Hasta ahora esta CPI no consiguió lograr nada muy concreto, lo que ya era esperado. Pero el simple hecho de que su instauración haya sido aprobada por la Cámara demuestra que los parlamentarios de la "Bancada Amazónica" están cada vez más articulados dentro del poder Legislativo.

Estatuto de las sociedades indígenas

Después de estar seis años parado, el Gobierno retomó, a inicios de este año, el proceso de tramitación del proyecto de ley que instituye el Estatuto de las Sociedades Indígenas, substituyendo el desactualizado Estatuto del Indio de 1973.

La nueva propuesta, ahora titulada "Estatuto del Indio y de las Comunidades Indígenas no contempla el concepto de sociedad (o pueblo) indígena. ¿Qué contempla?

El texto va a ser enviado al Congreso Nacional para recibir enmiendas y ser votado. Entre los cambios presentados con relación al texto de 1973 que está en vigor, se debe resaltar la revocación de la tutela de la Unión sobre los indígenas, estableciendo otros instrumentos de protección especial a los derechos indígenas, pero entretanto, mantiene atribuciones de carácter tutelar al órgano indigenista, la FUNAI, específicamente con relación a los indígenas aislados y a sus tierras.

La propuesta del Gobierno reafirma el carácter permanente de los derechos indígenas inscritos en la Constitución de 1988 y así los reglamenta y los consolida, además de abrir espacio para una discusión más actual sobre cuestiones económicas, patrimoniales y empresariales.

PARAGUAY

La situación de los pueblos indígenas respecto a sus derechos presenta, en general, un estado de agravamiento y, por tanto, de amenaza creciente a su supervivencia. El recorte al presupuesto del año 1999 del Instituto Paraguayo del Indígena (INDI), principal órgano ejecutor de la restitución de territorios indígenas, en un 58% con relación al año anterior, marca la política del Estado paraguayo en relación al sector indígena este año.

En un principio, el Sr. Martín Lezcano, presidente del INDI durante los últimos meses del gobierno de Cubas, mientras prometía respuestas a las demandas planteadas por los pueblos nativos durante la *"Marcha por la Dignidad Indígena"* realizada el 12 de octubre de 1998, dedicó sus esfuerzos a concretar nuevas defraudaciones al Fisco. La caída de Cubas y el advenimiento del Gobierno de Unidad Nacional encabezado por el presidente Luis González Macchi, frustraron sus intenciones, si bien el sucesor designado por este gobierno, el Sr. Optaciano Villamayor, tampoco reunió las mínimas condiciones de idoneidad y capacidad para dirigir al INDI. Los despropósitos perpetrados por Villamayor, tales como la desestimación de reivindicaciones territoriales legítimas, intentos de fraude en compra de tierras, corrupción administrativa interna y otros actos de similar naturaleza, hicieron que varios de los sectores involucrados en la problemática indígena: ONG's, indígenas, funcionarios del INDI, reclamasen por distintos medios y circunstancias, la destitución del citado funcionario.

El Presidente González Macchi, ante la presión de líderes *enxet* y *toba qom* y de otros indígenas de la Asociación de Parcialidades Indígenas (API), finalmente designó el 12 de Octubre de 1999 a la Dra. Elena Pane de Pérez Maricevich como presidenta del INDI. La misma cuenta con mejores antecedentes que sus predecesores, pero su designación demuestra que para que el Estado desarrolle una política indigenista que conteste a las reivindicaciones de los pueblos indígenas no bastan funcionarios con algunas buenas intenciones sino un cambio estructural y voluntad política real del Gobierno, así como una mayor asignación de recursos destinados a dicha política.

Conforme a esto, y dada las limitaciones del presupuesto del INDI durante el año 1999 U$S 5 millones que fue ejecutado en un porcentaje mínimo, ningún caso de reivindicación territorial pendiente de años anteriores fue resuelto. Para el año 2000 la situación empeoró en términos formales; sólo fueron asignados U$S 680.000. No sorpresivamente, en abril el Ministerio de Hacienda declaró que el INDI había agotado su presupuesto del año 2000; lo que significa que durante este año tampoco existen posibilidades de resolver

siquiera una reivindicación territorial. Esta desatención de la problemática indígena también se expresa en la omisión de cualquier referencia a los pueblos indígenas en el plan de reforma del Estado presentado por el Gobierno de Unidad Nacional.

Otros fenómenos alarmantes y hechos desfavorables ocurridos durante el año 1999 y principios del 2000, tales como el aumento de la migración indígena a la capital y a ciudades del interior -donde se integra al sector más marginal-, la prolongada sequía que afectó principalmente a la región Occidental, las repetidas ocupaciones de tierras indígenas por parte de campesinos pobres y la deforestación de estas tierras, contribuyen al panorama de indefensión y vulnerabilidad de las comunidades, demostrando el casi absoluto abandono de la función tutelar que el Estado está obligado a prestar a estos pueblos.

Las Secretarías de Asuntos Indígenas insertas en los gobiernos departamentales del país, irrumpieron con mayor protagonismo en el año 1999 al disputar una parte significativa del presupuesto -para restitución de tierras- del INDI. Su actuación, lejos de ser auspiciosa para los pueblos indígenas, ha multiplicado la burocracia estatal a nivel local. Las acciones emprendidas por estas secretarías se circunscriben al asistencialismo y la manipulación de los indígenas en función de intereses políticos sectarios. Particularmente, es ilustrativo el ejemplo de la Secretaría Indígena del Departamento de Presidente Hayes, Chaco, que si bien está dirigida por un indígena, el Sr. Amancio Benítez, ha demostrado que la participación indígena no pasa por la mera ocupación de cargos. La Coordinadora de Líderes Indígenas del Bajo Chaco, organización que reúne a representantes de los pueblos *enxet*, *toba qom* y *nivaclé* de todo el departamento, ha denunciado que los fondos asignados a dicha secretaría han sido malversados por la Gobernación y por ende no han beneficiado en absoluto a las comunidades. Asimismo, reclaman una verdadera participación dentro de la estructura de dicho órgano, en contraposición a la existente que es de carácter digitado y, por ende, carece de representatividad y legitimidad.

En junio de 1999, tres comunidades indígenas *enxet–sawhoyamaxa, yakye axa* y *xakmok kásek*- reuniendo unas 270 personas, realizaron una marcha y posterior estadía en Asunción frente al Parlamento, con el fin de plantear demandas a los tres poderes del Estado. En principio dos de ellas –yakye axa y sawhoyamaxa- lograron que el Poder Ejecutivo decrete el estado de emergencia de las mismas dado las difíciles condiciones en las que se encuentran al acampar sobre la ruta frente a las tierras que reivindican. No obstante, el cumplimiento de este decreto consistente en la debida asistencia alimenticia,

564

de salud y educación a estas comunidades se ha hecho con bastante irregularidad por parte del Gobierno. En la mencionada acción indígena también se presentaron dos proyectos de expropiación de las comunidades xakmok kásek y sawhoyamaxa (en este caso por segunda vez) y se exigieron pronunciamientos de la Corte Suprema de Justicia a favor de yakye axa, pero sólo uno de ellos resultó favorable (véase más adelante).

Conforme a todo lo expresado, es patente el incumplimiento de las garantías y derechos reconocidos a los pueblos indígenas por parte del Estado Paraguayo, a pesar de la existencia de un marco constitucional sumamente favorable. Existen varios hechos y circunstancias que ejemplifican este incumplimiento e inclusive algunos de ellos podrían reconocerse como una constante histórica que no ha sido modificada durante la transición "democrática" del Paraguay y sus sucesivos gobiernos. Sin embargo, vale la pena mencionar estos hechos y situaciones dado que su recurrencia durante el período analizado 1999-2000 delata una tendencia negativa en la que se proyecta la política indigenista del Paraguay. Estos hechos son:

1. El recorte del presupuesto del INDI para la adquisición de tierras reivindicadas.
2. Los repetidos intentos de defraudación al Estado con estos fondos, que se detectaron tanto en la administración de Lezcano, como en la de la Villamayor.
3. La manipulación de reivindicaciones legítimas y conflictivas con el fin de satisfacer los intereses de los propietarios particulares afectados. Vale el ejemplo de la comunidad indígena yakye axa, a quién tanto Lezcano como Villamayor trataron de convencer del cambio de su reivindicación por otras tierras.
4. En lo que se refiere al Parlamento, la manifiesta lentitud y falta de voluntad política para la sanción de las leyes de expropiación en los casos que se elevan a esta instancia, constituye una violación a los derechos territoriales indígenas. Esto nos ilustra el caso de las 78.000 hectáreas reivindicadas por el pueblo *ayoreo-totobiegosode* (de una reivindicación mayor de 600.000 hectáreas) proyecto que se encuentra en la Comisión de Reforma Agraria de la Cámara de Senadores desde hace dos años, a la espera de un dictamen favorable.
5. La Corte Suprema de Justicia denegó a la comunidad yakye axa, apostada al borde de la ruta que une Concepción con Pozo Colorado, su derecho a acceder a las tierras que tradicionalmente ocupa, para cazar y reco-

lectar en ellas, en tanto se tramita su restitución. Esta comunidad –tal como se mencionó- se hizo presente en Asunción en junio del 1999 para exigir un fallo definitivo de la Corte Suprema, tras un año de espera en la acción de inconstitucionalidad que presentó en contra de fallos negativos en 1ra. y 2da. instancia que le prohibían entrar a cazar en las tierras reivindicadas. Dado que el fallo negativo de la Corte Suprema agotó los recursos internos de la comunidad para hacer valer sus derechos, ésta ha presentado el caso ante la Comisión Interamericana de Derechos Humanos.

6. Conforme a lo anterior, se puede afirmar que no existe política indigenista nacional que determine las prioridades en materia de restitución de las tierras reclamadas y un plan de restitución coordinado con todos los organismos gubernamentales implicados. Tampoco existe un panorama claro respecto a la cantidad de tierras ya restituidas o por restituir, al igual que la identificación de comunidades sin tierra y de las zonas necesarias para asegurar mayores extensiones a las comunidades que así lo precisan.
7. En lo que se refiere a salud, se puede afirmar que no existe bajo ningún sentido una asistencia adecuada para los pueblos indígenas por parte del Estado. En el año 1999, varias comunidades afrontaron un sinnúmero de problemas relacionados al consumo de agua potable, debido a la prolongada sequía que afectó gravemente a numerosas comunidades. Particularmente, indígenas del departamento de Itapúa fueron afectados por la contaminación de los arroyos donde usualmente beben por el uso intensivo de agrotóxicos por parte de sus vecinos e inclusive varios niños murieron a causa de esto.
8. El gobierno no cuenta con un efectivo y real programa de educación formal indígena, sino que se limita a cubrir con escasos rubros para maestros indígenas y algunos puestos de supervisión académica y administrativa, destinados a la atención de dichos maestros. Los materiales educativos que contemplan la especificidad cultural de los pueblos indígenas son muy pocos y suelen ser proveídos casi todos por iniciativa privada.
9. La inasistencia del gobierno en todos los planos cobra mayor notoriedad con el aumento de la migración indígena a las ciudades por diversas causas, como ser: carencia de tierra asegurada, conflictos internos y falta de alternativas de subsistencia. Este es el caso de los indígenas *mbya* originarios de Capi'ibary, departamento de Caaguazú, que viven en la actualidad en el predio del basurero municipal de Asunción, dado que el INDI no tomó ninguna medida para asegurar las 250 hectáreas que ocupaban en su lugar de origen.

10. El Estado no ha asistido debidamente a los pueblos indígenas para proteger su hábitat de la deforestación y deterioro ecológico. Tanto en el Chaco como en la región Oriental, líderes indígenas han denunciado la deforestación de sus tierras en manos de terceras personas o de miembros de su comunidad presionados por la indigencia. Problemas de esta índole enfrentan comunidades de la región Oriental, tales como la comunidad *ava guaraní* de Itakyry y la comunidad *aché* de Chupa Pou.
11. El Estado tampoco ha tomado medidas preventivas y disuasivas para impedir la ocupación de tierras indígenas por campesinos pobres. Tierras como las de la comunidad mbya de Arroyo Claro, del departamento de Itapúa y la de Arroyo del Sur, del mismo departamento, fueron invadidas por campesinos, razón por la que los indígenas afrontan una situación de conflicto e inseguridad en su propio hábitat.
12. El Estado no ha adoptado acciones firmes para combatir el desempleo y mejorar las condiciones laborales de los indígenas en los casos que así se requiere. Como ejemplo, basta citar el caso de varias comunidades *ayoreo* del Chaco Central, cuyas fuentes de trabajo se han cerrado y no cuentan con alternativas sustitutivas en el presente.
13. Los pueblos indígenas, al igual que los demás ciudadanos paraguayos, gozan de las mismas garantías procesales y tienen derecho a la protección de su integridad física y psíquica por los encargados del orden. Los órganos públicos encargados de velar por estas garantías y derechos son el Poder Judicial y la Policía Nacional. Sin embargo, estos derechos son violados por quienes deberían protegerlos. Una muestra de esto constituye la detención de 28 indígenas -entre ellos 8 menores de edad- del pueblo mby'a en la cárcel de Pedro Juan Caballero, sin proceso alguno.

A través del panorama descripto, queda claro que persiste la ausencia de una política indigenista nacional que contemple de modo prioritario la satisfacción de las demandas de estos pueblos: restitución territorial, salud, educación, respeto cultural, no discriminación, participación real, tutela y vigencia de sus derechos, con instituciones saneadas, recursos humanos idóneos y financieros suficientes.

567

CHILE

En 1999, el mayor grupo indígena de Chile, los *mapuche* (aproximadamente el 10% de la población) han sido muy visibles en el escenario público, principalmente considerados como creadores de conflictos. Desde 1997, la demanda del movimiento mapuche ha surgido más claramente, especialmente el reclamo de ser reconocidos como pueblo. Los medios para lograr esta meta han sido demandar el "derecho ancestral" sobre 200.000 hectáreas de tierra en el sur de Chile, la cual todavía está en manos de hacendados y compañías privadas. Como consecuencia, la prensa chilena informó casi diariamente de actos de vandalismo y violencia, entre, por un lado los mapuche y por otro lado los hacendados privados y empleados de compañías madereras privadas. Esto causó gran preocupación al gobierno chileno, el cual ha exigido respeto por las leyes chilenas.

Según los mapuche, la fuente principal de conflicto con el gobierno chileno y las compañías privadas debe buscarse en la aplicación de la Ley Indígena de 1993, la cual garantiza que la "tierra definida como indígena gozará de la protección de esta ley y no puede ser dispuesta, confiscada, gravada ni adquirida mediante prescripción, excepto entre comunidades o individuos indígenas del mismo grupo étnico" (Artículo 13). De acuerdo a este artículo, los indígenas que puedan probar su parentesco directo con personas a quienes les fueron otorgadas el derecho a un territorio (llamado "título de Merced") entre 1884 y 1927 pueden reclamar legalmente ser los propietarios de las tierras indicadas. Un supuesto objetivo de este artículo era prevenir la explotación de las tierras indígenas por terratenientes y compañías privadas. Para los mapuche la tierra es como el símbolo de la conservación de la identidad y como consecuencia, el respeto de los derechos territoriales de los mapuche es absolutamente fundamental.

Sin embargo, la política de los pasados gobiernos chilenos ha convertido esto en un asunto complicado. Durante el gobierno de Allende, la ley 17.729 otorgó a los mapuche tierras y créditos para aumentar la producción. Este proceso fue completamente destruido durante la dictadura de Pinochet, cuando las comunidades mapuche fueron divididas en parcelas privadas. Además, según la ley 2568 de 1979 la propiedad rural "dejará de ser considerada tierra indígena con indígenas como propietarios". Como consecuencia, las compañías privadas recibieron la oportunidad de comprar y explotar lo que antes había sido definido como tierra indígena. Durante las últimas décadas, miles de hectáreas de tierra indígena han sido plantadas con bosques de pino no-nativos con subsidios del gobierno chileno.

En el Chile de hoy, los efectos de la expansión de las compañías madereras privadas en las comunidades indígenas han sido alarmantes para muchos mapuche. En promedio, una familia mapuche tiene 3 hectáreas de tierra a su disposición. Además, en muchas áreas esta tierra está sumamente erosionada y los recursos acuáticos son muy escasos. Esto es considerado como un producto de las muchas plantaciones de pinos en territorio indígena, pues los pinos absorben enormes cantidades de agua, conduciendo a un empobrecimiento de la biodiversidad. Las pobres cosechas y la extrema pobreza de los mapuche rurales son, por lo tanto, generalmente adjudicadas a la presencia de las compañías madereras. Debido a estas circunstancias, la mayoría de los jóvenes mapuche emigran a las grandes ciudades, donde trabajan en empleos mal pagos como empleadas domésticas y empleados en panaderías para sustentar a sus familias.

En el gobierno de Eduardo Frei (1993-1999) se buscó una solución a estos problemas mediante la implementación de la Ley Indígena 19.253 de 1993 y la compra de 150.000 hectáreas de tierra por la institución gubernamental para pueblos indígenas CONADI (la Corporación Nacional de Desarrollo Indígena)[1]. Esta tierra fue subsiguientemente transferida a los indígenas mapuche que dispusieran del "título de Merced". Los esfuerzos del gobierno de Frei, sin embargo, no pudieron satisfacer las demandas de los mapuche, quienes reclamaban su "derecho ancestral" a la tierra. Además, en el gobierno de Frei se dio permiso para más plantaciones de pino así como al plan de la compañía energética ENDESA para construir seis represas hidroeléctricas en tierra indígena. La construcción de la primera planta, llamada Pangue, fue finalizada en 1996. La construcción de la segunda represa, llamado Ralco ha sido desde entonces un tema de disputa debido a su impacto perjudicial sobre el medio ambiente así como también el reasentamiento de 700 indígenas.

Con estas razones, diversas organizaciones mapuche iniciaron en otoño de 1997 el actual proceso, el cual ha sido conocido como la "recuperación territorial" cuyo objetivo es recuperar 400.000 hectáreas de tierra. Desde esta fecha los conceptos de "conflicto" y "violencia" han sido puntos centrales en la descripción de la relación entre el gobierno chileno, las compañías privadas y los indígenas mapuche.

La violencia y la recuperación territorial

En 1999, el conflicto con las compañías madereras tomó la precedencia en las disputas causadas por la instalación de autopistas y represas eléctricas. Una gran cantidad de fundos o haciendas de propiedad de compañías madereras en el sur de Chile fueron ocupadas por mapuche, teniendo como principal

motivación el derecho a la tierra de acuerdo al "título de Merced". Las compañías Mininco y Arauco S.A. fueron las más severamente afectadas (53%), mientras que los hacendados fueron afectados en un 37,6% y los parques nacionales en un 4,3%[2]. Además de la ocupación de territorios, se bloquearon caminos, se cortaron puentes y se quemaron máquinas. Estas acciones han causado violentos choques entre empleados de las compañías madereras, hacendados privados, las fuerzas policiales y los mapuche. Es más, sólo en octubre se informó de más de 30 incendios en plantaciones de pinos. En varias ocasiones las escenas del conflicto parecían aquellas de una guerra civil, con los mapuche (entre ellos mujeres y ancianos) por un lado, armados con piedras y palos, y por otro lado una fuerza policial pesadamente armada con tanques, perros de policía y gases lacrimógenos protegiendo la propiedad de las compañías madereras.

Al examinar los hechos de 1999 aparecen diferentes discursos, todos los cuales en alguna medida subrayan la violencia de los actos de ocupación territorial, no obstante, con bases muy distintas. Estos dependen de los diferentes actores en el escenario, es decir, las compañías madereras, el movimiento mapuche, la prensa chilena y el gobierno chileno.

Para las *compañías madereras*, la principal consideración es el crecimiento económico y la ganancia. Mediante una exportación de un millón de dólares de madera contribuyen al crecimiento económico general en Chile supuestamente en beneficio de los ciudadanos chilenos. En el caso de los mapuche, las compañías madereras brindan trabajo a las comunidades. De acuerdo a una estadística referida por la Corporación Chilena de Madera, un 12% de los empleados son mapuche[3]. Sin embargo, las actividades de la compañías madereras están seriamente afectadas por el "conflicto mapuche". Mientras que las cifras de 1994-1996 demostraron que fueron plantadas 100.000 hectárea de bosques exóticos, en los siguientes tres años esta cifra descendió a 30.000 hectáreas, esperándose una cifra de sólo 20.000 hectáreas para el año 2000[4]. Esta baja es principalmente adjudicada a las sistemáticas actividades de terrorismo y vandalismo contra los empleados y la propiedad privada de las compañías madereras, realizadas por activistas del movimiento mapuche. Con estas razones, las compañías forestales, apoyadas por los políticos de derecha, han exhortado al gobierno de Chile a que tome acción en la lucha contra los "terroristas mapuche" para asegurar la economía y evitar un abismo de horror como el Chiapas mexicano o la guerra de guerrillas en Colombia.

En gran medida, *la prensa chilena* ha apoyado la versión de las compañías madereras, subrayando el carácter violento de las actividades de los llamados "terroristas" mapuche. Frases como "espiral de violencia", "terrorismo rural", "asalto brutal", "conflicto racial" han sido casi diariamente parte del lenguaje de los periódicos convirtiendo al "conflicto" en una escena de caos total.[5] En adición, varios periódicos han propagado la idea de una guerra de guerrillas organizadas por radicales marxistas con apoyo y financiación del exterior.[6] Es más describen un futuro posible donde el país sea dividido en dos naciones. Para prevenir un desastre total muchos periodistas han hecho un llamado al gobierno chileno para que tome medidas contra "los terroristas", por ejemplo, aplicando la ley antiterrorista y sentenciando a la parte culpable. Sin embargo, de acuerdo a una encuesta de opinión publicada en La Tercera este punto de vista no ha obtenido mucho apoyo en la capital chilena, Santiago, más del 80% de los entrevistados acordaron que los territorios corresponden legítimamente a los mapuche y el 68% consideraron legítimos los medios aplicados por el movimiento mapuche para obtener su objetivo.[7]

Durante los últimos tres años, las organizaciones mapuche, fundamentalmente la Coordinadora de Comunidades en Conflicto Arauko-Malleko, la Asociación Comunal Nankucheu de Lumaco, el Consejo de Todas las Tierras e Identidad Mapuche Lafkenches de la Provincia de Arauco, han ganado cada vez más fuerza en su discurso. Por primera vez, más de 5.000 mapuche de diversas organizaciones (excepto la Coordinadora Arauko-Malleko) participaron en una marcha conjunta el 12 de octubre en Concepción en memoria del "descubrimiento" de América por Colón.

Para las organizaciones, la aceptación de las seis plantas energéticas en el río Bio Bio ha indicado que el gobierno chileno sirve primero y fundamentalmente a los intereses de los fuertes grupos económicos. Las víctimas de esta política han sido los mapuche, quienes hoy, de acuerdo a las estadísticas, son el grupo más marginado de Chile en lo que se refiere al bajo nivel de ingreso, así como los elevados índices de mortalidad infantil, desnutrición, desempleo, alcoholismo y analfabetismo. Por lo tanto, las organizaciones mapuche alegan que el gobierno chileno está tácitamente participando en un etnocidio. En cambio, para cumplir con sus obligaciones como una democracia, el gobierno chileno debería reconocer los derechos territoriales de los mapuche así como sus derechos colectivos como pueblo. Eso significa la creación de una representación política independiente mapuche como pueblo así como la aprobación por el estado chileno de los convenios internacionales referentes a los pueblos indígenas.

Con respecto a los informes de violencia, desde el seno del movimiento mapuche, la situación se ve de manera bastante distinta. Los portavoces no niegan que se han cometido algunos actos de violencia, sin embargo, ellos lo justifican como una forma de defender sus derechos así como los últimos restos de la cultura mapuche. El primer acto de violencia fue cometido por el estado chileno, cuando cesó de respetar los derechos de los mapuche; las acciones de violencia en nombre de los mapuche es solamente una respuesta lógica y justa. No obstante, el movimiento mapuche ha tomado responsabilidad por una parte de los casos informados, indicando otros crímenes más severos, que presumiblemente fueron cometidos para mostrar al movimiento bajo una luz desfavorable. Esta sospecha ha sido apoyada por la confesión de varios guardias de seguridad de que habían realizado actos de ataque y vandalismo con la intención de hacer acusaciones contra el movimiento mapuche. Además, voces dentro del movimiento mapuche relatan sobre el arresto de menores, acoso sexual de las mujeres en arresto, irregularidades y torturas en conexión con arrestos ejecutados por las fuerzas policiales chilenas. Esto fue publicado en un informe sobre Derechos Humanos del Departamento de Estado de los Estados Unidos.[8] Sin embargo, estas noticias desaparecieron rápidamente en la continua corriente de informes de nuevas ocupaciones de haciendas, actos de violencia y el arresto de elementos sospechosos, todos identificados como mapuche.

La respuesta del *gobierno chileno* ha fluctuado entre dos polos, primero la seguridad de los intereses económicos y la estabilidad, segundo el cumplimiento de los principios democráticos y los derechos humanos. Las respuestas represivas realizadas por las fuerzas policiales y la aplicación de la ley de antiterrorismo, representan el primer polo, así como las investigaciones que apuntan a revelar el grado en el que el movimiento mapuche está organizado por "terroristas foráneos"[9]. En el mismo espíritu, los representantes del gobierno han garantizado que la situación estaba bajo control y que el grupo "violento" era pequeño y aislado.

El polo opuesto está reflejado en la realización de diversas formas de diálogo con el movimiento, sin embargo, siempre haciendo poco caso de la demanda de una nación mapuche independiente. CONADI ha tratado subsecuentemente de actuar como una salvaguardia contra las demandas de la aplicación de una política represiva, manteniendo una política de diálogo. No obstante, estos diálogos fueron vacilantes debido a la declaración de desconfianza a CONADI del movimiento mapuche, primero porque su director

572

chileno, Rodrigo Gonzáles fue considerado como representante del gobierno, fundamentalmente en el caso de la construcción de Ralco.

El papel de CONADI

El otoño de 1999 fue marcado por dos elecciones, primero las elecciones presidenciales, segundo la elección de asesores indígenas para CONADI. En las elecciones presidenciales, el socialista Ricardo Lagos ganó por una estrecha mayoría. En marzo, Lagos invitó a los recién electos asesores a un sano comienzo de la discusión del "problema mapuche". Los asesores trataron de resolver el problema de la falta de confianza en CONADI exigiendo el cumplimiento de las demandas, entre estas la demanda era la destitución de Gonzáles y la reconsideración de la construcción de Ralco. La primera demanda fue cumplida de inmediato con el remplazo de Rodrigo Gonzáles por el mapuche Edgardo Lienlaf. El caso de Ralco parece más complicado debido al hecho de que el nuevo gobierno ha nombrado a varias personas en cargos importantes, que participaron en la aprobación original de la construcción de Ralco[10]. Hasta abril del 2000 no se había llegado a ningún acuerdo.

La falta de confianza en CONADI fue también expresada por grupos de indígenas *aymará* y pueblos indígenas de la Isla de Pascua. Los aymará criticaron el hecho de que mientras los mapuche tienen 8 representantes, aparte del representante urbano, en la "mesa de diálogo", los aymará tienen un solo representante. De la misma manera, un grupo de *rapanui* de la Isla de Pascua criticaron el sistema electoral de asesores de CONADI, lo cual expresaron mediante el acto de ocupación de la oficina local del gobierno.

Notas

1 El Mercurio 24-03-1999
2 Forster 1999:4.
3 La Tercera 21-02- 2000
4 Diario del Sur 14-03-2000
5 Diario del Sur 14-03- 2000
6 El Sur 20-04- 2000
7 La Tercera 18-04 -99
8 La Tercera 28-02-2000
9 El Mercurio, 16-5-1999
10 El Metropolitano 06-04-2000

Fuentes

Periódicos:

El Diario Austral; El Mercurio; El Metropolitano; El Sur ; La tercera

573

(Ver Proyecto de Documentación Ñuke Mapu. Linux.soc.uu.se/mapuche)

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ARGENTINA

Lamentablemente 1999 ha sido un año de retrocesos. Si bien en Argentina está pendiente la tarea de legislar para garantizar el efectivo goce de los derechos indígenas consagrados en la Constitución Nacional reformada en 1994, de un tiempo a esta parte han comenzado a aparecer señales de un cambio social y jurícico favorable a los pueblos indígenas. Y ello no es poco para un país que sistemáticamente se ocupó de negar su existencia. La prensa, oral y escrita, sobre todo provincial, abre sus puertas a las demandas indígenas y a temas en los que están involucrados de una u otra manera. Los funcionarios estatales no pueden ignorar tenerlos en cuenta cuando se discuten políticas sociales. La Secretaría de Desarrollo Social y Medio Ambiente que concentra todos los planes que a nivel nacional se destinan a la asistencia social, cuenta con varios programas que tienen a los pueblos indígenas como destinatarios. En todos los casos se busca ser "políticamente correcto" reconociendo la indispensable participación indígena en el diseño e implementación de planes y programas. Aunque en la práctica no se alcancen tan buenos propósitos. En el ámbito judicial también se discuten reformas y criterios para ajustarse a la nueva realidad de los derechos indígenas. Y prácticamente no existe juez ni operador jurídico que pueda soslayarlos, argumentando falta de jurisprudencia.

A pesar de lo dicho la situación de las comunidades indígenas continúa siendo grave. Las protestas y reclamos por el no reconocimiento de sus derechos territoriales se sucedieron a lo largo de todo el período. El Instituto Nacional de Asuntos Indígenas, la agencia estatal de aplicación de la política hacia los pueblos indígenas, sufrió dos reducciones presupuestarias severas, quedando estancados varios programas, entre ellos el de regularización territorial. También se vio afectado el Consejo Asesor de los Pueblos Indígenas, constituido unos meses antes, que no pudo seguir pagando los viajes de los

574

representantes indígenas a la capital del país para reunirse a discutir la política del Instituto y acordar prioridades.

A estos desequilibrios se sumó el hecho de que en 1999 se realizaron en el país elecciones generales para gobernadores y presidente, por lo que buena parte del año estuvo viciada de campañas políticas y relaciones clientelares.

Así, antiguos reclamos de tierras continuaron en una fase ambigua de indefinición e irresolución.

La Asociación de Comunidades Aborígenes Lhaka Honhat. En el mes de enero la Comisión Interamericana de Derechos Humanos da traslado al Estado Argentino de la denuncia presentada. En el mes de julio en su respuesta a la Comisión el Gobierno de Argentina reconoce que la "*construcción del Puente Internacional sobre el río Pilcomayo Misión La Paz (Argentina) – Pozo Hondo (Paraguay), así como otros caminos y edificios diversos, modifica sensiblemente la forma de vida de las comunidades indígenas y que habría sido oportuna la celebración de consultas así como de un Informe sobre el impacto medioambiental de esas obras. Por esa razón el Instituto Nacional de Asuntos Indígenas ha ofrecido su disposición para arbitrar los mecanismos disponibles para dar cumplimiento al imperativo constitucional de reconocer la posesión y propiedad comunitarias de las tierras ocupadas por los indígenas (Art. 75, Inc.17 CN) y desarrollar procesos de mediación entre las partes*"

Esta respuesta fue recibida con satisfacción por parte de la Asociación. Sin embargo los planes del gobierno local eran otros y avanzó en su implementación. Entrega de títulos de tierras a pobladores criollos y a familias indígenas sueltas. Para ello inventa comunidades y fabrica acuerdos de dudosa legitimidad entre ambos para justificar las entregas parciales. Por otro lado, y sin importarle el tratamiento del caso ante la CIDH y la misma respuesta emitida por el gobierno nacional, las autoridades provinciales avanzan con las obras de construcción del puesto fronterizo en Misión La Paz donde hace unos años concluyó la construcción del puente internacional. Como consecuencia de esto, se procede a talar el monte para extraer leña destinada a la fabricación de ladrillos para las obras, sin medir las consecuencias ecológicas de esta acción. En octubre se realiza en Washington la primera audiencia con la CIDH, el coordinador de Lhaka Honhat y el Gobierno Argentino. Se acepta la oferta de mediación bajo la condición de suspensión inmediata de las obras en Misión La Paz. El Estado Argentino solicitó 15 días para emitir su respuesta luego de los cuales contestó que no podía arribar a ninguna conclusión por tratarse de un gobierno en transición.

Mientras estas tratativas estaban en marcha el gobierno provincial resuelve la adjudicación en propiedad de 9 fracciones de tierras en el lote fiscal 55, de las cuales 5 serían para supuestas comunidades indígenas, y 4 para familias criollas ganaderas. La Asociación no se queda quieta y presenta un recurso administrativo para protestar por no haber sido debidamente notificada de estos planes. En este contexto es aún incierto el futuro para Lhaka Honhat, su esperanza está puesta en el nivel internacional y en la fuerza de presión que pueda ejercer la CIDH ante el gobierno nacional. Pero, mientras estos pasos deben darse, la conflictividad social en las comunidades y la destrucción del ambiente chaqueño aumentan desmesuradamente.

El antiguo reclamo de la *Asociación Meguesoxochí* de la provincia de Chaco por 150.000 hectáreas reservadas para los "*Toba del Norte*" mediante decreto presidencial de 1924 parece arribar a un fin ya que a fines de año se entregó a la organización el título de tierras, sólo que este título es una fotocopia del título verdadero y que las tierras podrán ser vendidas luego de transcurrido un período de 20 años.

En todo el país los pueblos indígenas son amenazados por el avance de los frentes agropecuarios, forestales y mineros.

La comunidad *mapuche* de Futa Huau en la provincia de Chubut debió ocupar una escuela pública que había sido usurpada por un particular no indígena de la zona, para hacer conocer sus reclamos sobre la misma y denunciar al mismo tiempo el robo de 1.000 hectáreas de tierras apropiadas por esta misma persona. Varios miembros de esta comunidad enfrentan hoy un proceso por usurpación, daño a la propiedad y atropello en banda.

En la misma provincia, la comunidad mapuche Vuelta del Río enfrenta problemas semejantes. Esta comunidad está asentada en tierras reservadas por un decreto presidencial del año 1899, luego de penosas demandas encaradas por el entonces cacique de la comunidad. Actualmente viven allí 25 familias en 15 lotes de 625 hectáreas cada uno, lo que significa que no alcanza un lote para cada familia. Continuamente las familias se ven acosadas por particulares portadores de títulos ilegítimos que pretenden apoderarse por la fuerza de sus tierras. Hacia finales del año un particular intentó entablar un juicio reivindicatorio contra la comunidad y ya existen miembros de la misma procesados por usurpación.. Frente a tantas presiones, definidas por el abogado de los indígenas como "acoso judicial", la comunidad ha solicitado el otorgamiento de un título comunitario sobre las tierra tradicionalmente ocupadas

576

hasta completar un lote por familia y la anulación de todo título de propiedad otorgado a particulares no indígenas sobre las tierras reservadas.

Al norte del país en la selva misionera la comunidad *mbyá guaraní* Tekoá Yma de Pepirí Guazú, considerada lugar sagrado por los mbyá, un santuario al que peregrinan en busca de la recuperación del equilibrio espiritual roto por el contacto con la sociedad no indígena, constituye un lugar donde los mbyá sienten que pueden ser plenamente mbyá. La Tekoá está habitada por más de treinta familias en un territorio de 3.964 hectáreas que según los datos catastrales de la Provincia de Misiones pertenecerían a un particular no indígena que adquirió las tierras en 1986. A mediados de 1999 una empresa forestal "El Moconá S.A." inició en la zona la explotación de la selva a gran escala, arrasando con especies de maderas preciosas y afectando la totalidad del ambiente de la Tekoá Yma. La grave situación planteada decidió al jefe de la aldea a presentar una medida de no innovar, invocando el derecho constitucional de las comunidades a participar en la gestión de los recursos naturales. El juez de Primera Instancia hizo lugar al pedido de los indígenas pero ante una presentación de la empresa invocando su carácter de propietaria de las tierras, el mismo juez dejo sin efecto la medida. En este momento la causa ha sido apelada y se espera una decisión de los jueces de Cámara. Como represalia, la empresa forestal cerró el camino de acceso a la comunidad prohibiendo el ingreso de cualquier persona, impidiendo la atención médica de la comunidad y la asistencia legal. La única forma de entrar es con autorización expresa de los representantes de la empresa que se encuentran a más de 100 kilómetros del lugar.

La *Comunidad India Quilmes* integrada por catorce comunidades del pueblo d*iaguita calchaquí* ha denunciado los atropellos y violaciones de sus derechos territoriales de parte de empresas mineras y emprendimientos turísticos que avasallan sus lugares sagrados y sin miramientos golpean y amenazan de muerte a los miembros de la comunidad que se atreven a denunciar estos hechos.

El abuso de no-indígenas que se presentan como terratenientes ha llegado hasta el colmo de exigir a 20 familias de la comunidad Anchillos a la entrega de las cosechas en proporción de dos tercios y al pago de pastaje por cabeza de animales. A ello se suma la exigencia de pago por el uso de agua y la contaminación ambiental por el asentamiento de basureros y explosiones realizadas por la mineras. Esto acontece sin respeto por la cédula real de 1716

577

que reconoce a los *Indios Quilmes* la posesión natural y milenaria de esas tierras y su propiedad.

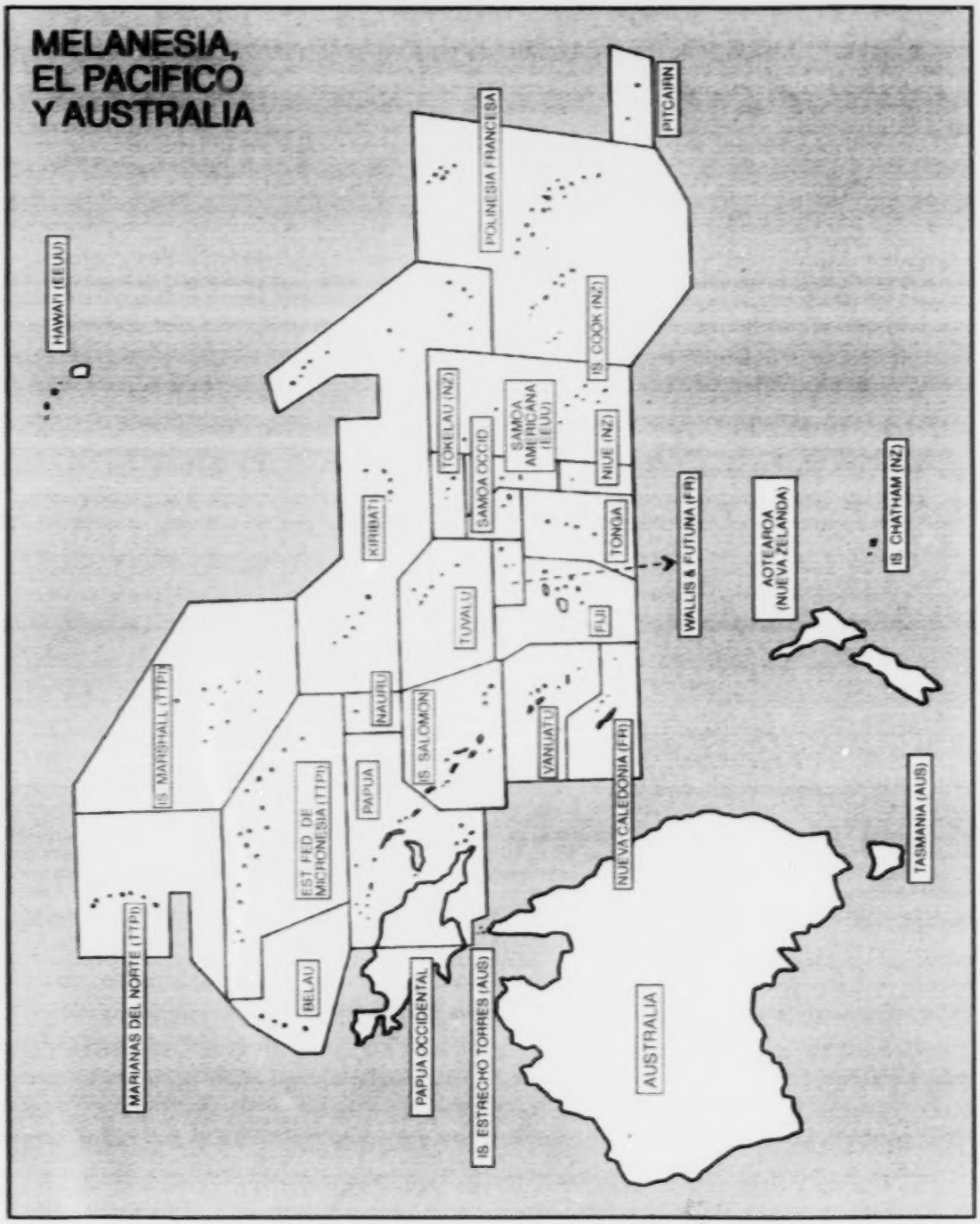
La *Comunidad Wichí Hoktek T'oi* en la provincia de Salta está virtualmente acorralada por la devastación irracional del monte emprendida por un particular que compró las tierras con la comunidad adentro de ellas. La comunidad está empeñada en defender una franja forestal de aproximadamente ocho hectáreas ubicadas en un terreno colindante. En el mes de noviembre la empresa pretendió ingresar en esta franja para desmontar y colocar un alambrado que impide el acceso a un pozo de agua que es de uso de la comunidad. Los miembros de la comunidad decididamente enfrentaron las topadoras que tuvieron que retroceder no sin antes amenazar de muerte a los participantes de la resistencia. Ante estos hechos la comunidad presentó denuncia ante el Defensor del Pueblo de la Nación, mientras se tramita en el Congreso de la Nación un proyecto de ley de expropiación por 3.000 hectáreas (tan sólo el 4% del territorio ancestral).

La comunidad mapuche Leufuché en la Provincia de Río Negro está asentada en tierras declaradas en 1997 área protegida. A pesar de ello en 1999 se dictó una resolución municipal otorgando las tierras a un particular para iniciar un emprendimiento económico que, a no dudarlo, acarreará daños ecológicos al ambiente y el consiguiente desplazamiento forzoso de la comunidad. Este conflicto se encuentra en trámite judicial.

También se mantienen conflictos con el ejército en el Boquete de Nahuelpán donde habita una comunidad del pueblo mapuche en la provincia de Chubut. Allí se realizan periódicas maniobras militares poniendo en peligro la vida de las personas y las áreas de pastoreo. Estas tierras vienen siendo reclamadas por la comunidad desde 1937 y aún no ha sido reconocida su posesión por el estado argentino. En cambio el Ejército aprovecha la situación de irregularidad jurídica para enfrentar a las familias demandantes creando un enfrentamiento interno para desacreditar el reclamo.

Sobre otras reformas y adecuaciones normativas proyectadas y en trámite durante el año

Censo General de Población y Viviendas del Año 2001. La ley nacional 24956 prevé que en el futuro censo se incluya como temática especial la variable indígena. Esto significa que en base al autoreconocimiento, las personas indígenas podrán manifestar su identidad como miembros de uno de los 18 pue-



Países tratados en esta publicación: Australia, Kanaky (Nueva Caledonia), Te Ao Maohi (Polinesia Francesa), Bougainville, Papua Occidental, Guam y Ka Pae'aina (Hawai'i)

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blos indígenas que actualmente residen en Argentina. En noviembre se realizó en la Ciudad de Clorinda (Formosa) un censo experimental para probar en el terreno una pregunta destinada a detectar hogares con al menos un componente indígena. Las autoridades del Instituto Nacional de Estadísticas y Censos esperan obtener datos significativos a partir del Censo 2001 con los cuales diseñar un Censo Indígena General para el año 2002.

Reforma del Código Procesal Penal en la provincia de Neuquén. Las autoridades judiciales de la provincia de Neuquén están estudiando una reforma al código de procedimiento que incluye el artículo 40 que dice: "Comunidades Indígenas: Cuando se trate de delitos que afecten bienes jurídicos propios de una comunidad indígena o bienes personales de alguno de sus miembros, y tanto el imputado como la víctima o, en su caso, sus familiares acepten el modo como la comunidad ha resuelto el conflicto conforme a su propio derecho consuetudinario, declarará la extinción de la acción penal. En estos casos, cualquier miembro de la comunidad indígena podrá solicitar que así se declare ante el juez penal o el juez de paz en los casos que este pueda intervenir. Se excluyen los casos de homicidio doloso y los delitos agravados por el resultado de muerte". Organizaciones indígenas de la provincia han adherido en primera instancia a estas propuestas.

Proyecto de creación de una categoría novedosa en materia de manejo de recursos naturales: Territorio Indígena Protegido. Con la participación del Instituto Nacional de Asuntos Indígenas algunas organizaciones indígenas de las provincias de Neuquén, Salta y Tucumán están elaborando una nueva categoría para el uso de los recursos naturales en áreas donde se hace necesario mantener directivas claras en cuanto a la conservación y manejo de la biodiversidad. El proyecto que cuenta con el apoyo econó-mico del Banco Mundial parece ser una alternativa novedosa para comunidades asentadas en áreas protegidas y en tal sentido ya ha sido programado un taller para el año 2000 en la ciudad de San Martín de los Andes con participación de la Administración de Parques Nacionales, la Confederación Mapuche Neuquina y el Instituto Nacional de Asuntos Indígenas.

OIT Convenio 169. Diversas organizaciones indígenas y ONG's reclamaron al estado argentino el urgente depósito de la ratificación del convenio en la sede de la OIT en Ginebra. El nuevo gobierno que asumió el 10 de diciembre ha prometido que en el año entrante (2000) lo hará efectivo.

530

EL PACÍFICO Y AUSTRALIA

AUSTRALIA

Nacionalidad incompleta

Cuando un insatisfecho adolescente aborigen se ahorcó en febrero del 2000 en la cárcel en Darwin, la capital del Territorio del Norte (NT), él enfocó temas de legitimidad constitucional, historia disputada, nacionalidad incompleta, identidad controvertida e injusticia social y racial para un continente y sus pueblos. ¿Por qué se encarcelaba a niños por ofensas triviales, en este caso por robar lápices Texta? ¿Por que las leyes del NT no liberaban a tantos aborígenes cuyo crimen real era ser pobres y desposeídos? ¿Por que los gobiernos, federal y del NT, eran tan casuales sobre el sufrimiento de pueblos que habían establecido las más antiguas culturas continuas de la tierra? ¿Por qué unos pocos enclaves blancos estaban constituidos en su mayoría por trabajadores a corto plazo o buscadores de curiosidades dictando nociones arcaicas sobre la justicia del hombre blanco y su cultura y recordando a los australianos del racismo oficial pasado? Parecía que los brutales encarcelamientos y maltratos de los británicos de pobres ingleses e irlandeses del siglo XVIII y comienzos de XIX, dificultades e injusticias que son la creación histórica de la Australia blanca, estaban siendo reconstituidos por aquellos supervivientes blancos contra nuevas víctimas.

Surgió un furioso debate a través del país entre dos países agudamente contrastantes y conflictivos. Uno es una sociedad moderna, abierta, inclusiva que quiere reparar su historia y curar las heridas de los pueblos indígenas mediante la genuina reconciliación como una condición previa para la vida como una nación unificada en un mundo vertiginoso, multiracial. El otro asocia su propio confort con un pasado vago en el cual "los negros conocían su lugar" y las mujeres, los intelectuales, la gente con acento extraño y la nueva tecnología no desafiaban para siempre la adecuación de los viejos prejuicios y la educación limitada. Esta última Australia no tiene futuro pero alimenta grupos marginales y pequeños partidos políticos excéntricos que se lanzan contra los extranjeros, las minorías y la mundialidad en general mientras que los partidos importantes silencian sus ideales con la esperanza de obtener o no perder a tales votantes.

Australia ha estado disputando su identidad y símbolos durante años. Australia estaba recientemente a la avanzada de la mayoría de los países poblados por europeos en relaciones positivas permanentes con países asiáticos y había superado ampliamente las memorias de la política de la Australia blanca. Pero Howard, ha sido acusado de alentar la sospecha populista sobre tales extranjeros, poniendo en riesgo los intereses a largo plazo de Australia. Incluso la admirable ayuda de los australianos y sus fuerzas armadas en Timor Oriental durante las masacres y el terror diseminados por Indonesia siguieron mucho la agitación y ofuscación del gobierno de Howard.

Las encuestas muestran un claro apoyo público por tener un jefe de estado australiano que reemplace a las reinas británicas o los futuros reyes. Los últimos son miembros no electos de una familia protestante en el otro lado del mundo. En un referéndum de 1999, el Primer Ministro John Howard y otros monarquistas derrotaron un cambio mediante la división del voto republicano entre aquellos que favorecían un jefe de estado elegido por el Parlamento y otro directamente elegido por el público. El mismo día, las declaraciones de los valores australianos redactadas por el Primer Ministro personalmente para ser ubicadas al principio de la Constitución fueron derrotadas (Ver *El Mundo Indígena 1998-99*). A pesar del gesto público de negociación la versión final con un sólo aborigen electo recientemente para el Senado, Howard hizo poco por apoyarla y los votantes la rechazaron.[1]

Y así, mientras que el 1 de enero del 2001 un país celebra su siglo como un todo –próspero e igualitario bajo una Constitución federal- con las Olimpíadas del 2000 como precalentamiento, existe una profunda división, confusión, furia y remordimiento. La prensa y los líderes de la comunidad están amablemente pero insistentemente haciendo llamados por un liderazgo moral y político sobre temas nacionales, concluyendo usualmente tales comentarios diciendo que tal liderazgo no puede provenir de Howard. Uno de los proyectos favorecidos por el Primer Ministro para la celebración nacional es en sí mismo un centro causa de división: otorgar el estatus de estado para el Territorio del Norte (NT).[2]

El Territorio del Norte

El Territorio del Norte es el corazón del continente, una gran tajada de una enorme región donde los pueblos *aborígenes* e *isleños* del Estrecho Torres todavía viven en o cerca de sus territorios tradicionales de escasa población, en tierra desierta y semidesierta con una franja costera verde sustentada por las lluvias estacionales de los monzones. Incluso cuando una brutal frontera ganadera ocupó sus tierras, muchos pueblos indígenas encontraron un *modus*

vivendi para mantener gran parte de su cultura.[3] El mapa muestra límites completamente arbitrarios, destrozando este corazón de Australia sin consideración con los límites ecológicos, topográficos o sociales y culturales indígenas. En la mitad, "el Hombre Blanco" extendió una línea telegráfica para conectar al continente con el mundo, es decir, Londres, luego vino un camino. Esta delgada línea roja en muchos mapas es la Autopista Stuart. Durante décadas el gobierno del NT ha querido construir una vía férrea desde Alice Springs hasta Darwin en la creencia que esto haría a la región, o al menos a sus habitantes no-aborígenes, ricos.

El Territorio del Norte tiene escrita su historia convencional.[4] Como en muchas colonias enraizadas hay algunos que hacen un fetiche de las antigüedades locales, como si la baranda de una casa de cien años de alguna manera llenara el espacio que no debemos ver – los enormes paisajes e innumerables galerías de roca que miden el tiempo y son manejadas con fuegos estacionales, historia y ley clara "desde tiempos inmemoriales". Tal historia no-convencional es más interesante y útil. La discontinuidad de personal en el norte del Hombre Blanco, los contactos marginales de centros de una pequeña población blanca con las realidades aborígenes, el uso extensivo de la tierra de los aborígenes y las pocas locaciones de trabajo blanco y residencia, todo significa que las culturales aborígenes y los modelos de relaciones sociales y políticas con los blancos, para no mencionar la historia y los imperativos de las tierras y mares en sí mismos, brindan la historia real. La novela clásica *Capricornia* por Xavier Herbert (1938) brinda un semi-documental de las colisiones trágicas del siglo XX de las historias indígenas y no-indígenas en el área de Darwin. Un nuevo libro del antropólogo David Lawrence documenta brillantemente y revela el gran tema de las décadas recientes, el parque nacional Kakadu y sus minas de uranio al este de Darwin, una batalla que todavía continúa aunque etapas anteriores forjaron la política nacional indígena australiana como el caso Alta en Escandinavia.[5]

Se ha probado que la ocupación aborigen del norte de Australia se remonta a 50.000 años. La noche de Nochebuena, mientras que el año 2000 amanecía en la TV, vimos a los *inuit* celebrando en la nieve y el hielo de Iqaluit, la nueva capital del nuevo Nunavut. Los inuit ofrecieron graciosamente el show a los aborígenes de NT que estaban prontos con una ceremonia en Uluru, la gran roca roja monolítica en el corazón de Australia conocida por generaciones de australianos como la Roca de Ayer – las más nuevas y las más viejas culturas sobre la tierra, dijo el presentador de la TV. Pero mientras que los inuit del norte de Canadá, Groenlandia y Alaska habían luchado con un considerable éxito para establecer estructuras políticas y control sobre sus tierras

y mares, en Australia, el gobierno del NT y sus amigos había impedido las reformas indígenas y muchas urgentes iniciativas indígenas sobre la base de que esto es separatismo, *apartheid*, o racismo inverso. Mientras que las grandes ciudades del sudeste de Australia celebran su carácter cosmopolita, se hace una aguda distinción nacional con respecto los aborígenes y a los isleños del Estrecho Torres. Los líderes políticos de las capitales estatales y nacional se han referido demasiado frecuentemente a la "experiencia" del NT en el tratamiento de los asuntos indígenas. La experiencia es más apropiada para el viejo Paraguay del General Stroessner que para un país del "primer mundo".

"Hablando inglés"

Tres temas "candentes" de NT ilustran el problema. Uno es el abandono de la enseñanza de la lengua indígena en las escuelas. El gobierno del NT cree que si a los niños se les niega todo menos el inglés, serán asimilados a la economía del mundo del Hombre Blanco más efectivamente. Otros países del "primer mundo" aprendieron hace muchas décadas que tales políticas educativas indígenas eran desastrosas, pero a los ministros del NT aparentemente les importa poco.

La "sentencia obligatoria" ha sido una gran controversia reciente. Esto implica encerrar a cualquiera que es convicto de incluso ofensas menores, como el chico que se ahorcó. Los no-aborígenes que van al NT lo hacen como turistas o en busca de trabajo, y retornan al sur o siguen viajando por Asia o Europa cuando sus carteras o los álbumes de fotos están llenos. Las leyes del NT están, en efecto, orientadas a encerrar a los negros. El apoyo a tales políticas de "ley y orden" es fuerte en el norte, oeste y centro de Australia entre las personas no-indígenas. En el siglo XIX y comienzos del XX los aborígenes eran esclavizados y abusados, o simplemente matados – hombres, mujeres y niños. Un hombre que ha dado su nombre a una de las calles centrales de Alice Springs, NT, el alguacil Willshire, escribió líricamente sobre una masacre de esas al amanecer:

> *"Se dispersaron en todas direcciones... no sirve disminuir las cosas – las carabinas Martini-Henry en ese momento crítico estaban hablando inglés en la silenciosa majestad de esas grandes rocas eternas. La montaña fue guadañada en un ropaje real de fiera grandeza, y su ominoso estruendo estaba cerca de nosotros. La curiosa, espantosa belleza de la escena nos dejó sin palabras durante unos pocos segundos".*[6]

¡*Hablando en inglés*, por cierto! Genocidio, etnocidio, abolición de la antigua lengua, aprendizaje de la nueva lengua, o encerrar a los habitantes locales – existe una cierta continuidad y coherencia de tema en la política de Australia del norte. El nuevo primer ministro dice:

> *"Creo que los australianos deberíamos estar orgullosos de nuestro registro de derechos humanos, creo que los australianos deberían estar orgullosos sobre la manera en que han tratado a los temas indígenas y su complejidad... . No creo que debamos agachar nuestra cabeza frente a nadie ya sea la ONU o cualquiera sólo porque alguien escribe un informe para criticarnos".* [7]

El tercer tema es la demanda del gobierno del NT por una "igualdad" constitucional con los seis estados que formaron a Australia en 1901. En agosto de 1998, el Primer Ministro prometió un nuevo estatus de nacionalidad para enero del 2001, pero el modelo propuesto fue rechazado por los votantes del NT apenas después. El premier que había propuesto el plan fallado fue desechado por su grupo partidario, pero el Primer Ministro le dio la bienvenida como un Liberal y se convirtió en el nuevo presidente del partido. Esto desató la alarma de muchos liberales que deploraban la imagen de su partido como tolerando y alentando políticas anti-aborígenes. Informes anteriores habían alegado que la ayuda del NT era importante para la victoria eleccionaria de Howard en 1996 y esto pareció confirmarlo. Presumiblemente, el Primer Ministro desea que el estatus de estado sea su regalo para Australia para el centenario constitucional del año 2001. Recientes comentarios señalan lo siguiente – "Yo no pienso que estén necesariamente lejos de la condición de estado en respuesta al escepticismo de un entrevistador".[8]

Los modelos propuestos de estado no tienen ningún componente indígena o participación. A comienzos de marzo del 2000, el Primer Ministro rechazó explícitamente la autonomía indígena, la cual calificó de "desarrollo separado", reconciliación legislada o negociada y un acomodamiento de ley consuetudinaria indígena para Australia en su conjunto. Él destacó recientes encuestas de opinión, diciendo que el "australiano medio" (¡quién pueda eventualmente serlo!) apoyaba sus puntos de vista. Los medios de difusión respondieron con un coro de editoriales y comentarios demandando un liderazgo moral e intelectual o una reconciliación. Sin embargo, Howard se ha otorgado más oportunidades para evitar el progreso mediante el rechazo de la fecha clave del 27 de mayo para un documento de reconciliación[9] y la fecha del 1 de enero del 2001 para una conclusión exitosa del proceso de reconciliación.

Los temas constitucionales no resueltos no están confinados al NT. Un caso de justicia fundamental como aquel que lanzó las modernas reformas políticas indígenas de Canadá contempló al líder aborigen del noroeste de Queensland, Murrandoo Yanner apoyado por la Suprema Corte 5-2 en sus derechos tradicionales para cazar cocodrilos a pesar de la ley de Queensland.[10] Muchos blancos alegaron estar escandalizados y consideraron a esto como una amenaza a la unidad nacional.

Ecos internacionales

Antes de que el Secretario General de las Naciones Unidas, Kofi Annan, visitara a Darwin y otras ciudades para agradecer la ayuda de Australia en Timor Oriental en febrero del 2000, Howard le advirtió a través de los medios de difusión no realizar comentarios sobre las sentencias obligatorias, el tratamiento del NT de los aborígenes o las políticas indígenas de Australia en general. Howard negó explícita y públicamente, con alguna molestia, que los acuerdos de la ONU u otros acuerdos internacionales firmados por Australia tenían que ser respetados, o que extranjeros como la directora de derechos humanos de la ONU, Mary Robinson, tenían derecho a comentar sobre Australia. Australia ya estaba siendo censurada por la ONU sobre el tema indígena en varias áreas diferentes, incluyendo la disminución del título nativo[11] y sobre la protección ambiental. El tema de las sentencias obligatorias, por ejemplo, ha atraído una fuerte crítica dentro de Australia de parte de abogados, jueces y grupos de derechos humanos por quebrantar las normas de la ONU. Un ejemplo del "argumento" de Howard brinda el sabor de sus puntos de vista, tomado del programa de la radio nacional que comienza el día junto con el café de la mañana para los australianos informados:

> *"Y la sugerencia de que de alguna forma somos responsables frente al resto del mundo por algo como esto, dado el registro de derechos humanos de este país. Quiero decir que no voy a aceptar una situación donde algunos denigren la reputación de derechos humanos de Australia. La reputación de derechos humanos de Australia comparada con el resto del mundo es bastante magnífica. Hemos tenido nuestras acusaciones y hemos cometidos nuestros errores y no estoy diciendo de que seamos perfectos. Pero no voy a aceptar que el nombre de los derechos humanos de este país sea mancillado en el contexto de una discusión política interna".*[12]

586

Con el Primer Ministro tan determinado a no reconocer, respetar, acomodar, o "reconcialiarse" con la sociedad indígena, cultura o aspiraciones políticas en el territorio central de su supervivencia, es decir, las tierras tradicionales que comprenden el NT, no parece haber esperanzas de progreso para los aborígenes de Australia o los isleños del Estrecho Torres bajo su liderazgo.

Constituyendo y reconstituyendo Australia

En un sorprendente nuevo libro sobre su trabajo en film y fotografía, la artista aborigen nacida en Brisbane y que trabaja y vive en Nueva York, Tracey Moffatt, dice muy concretamente "Australia es una nación muy multicultural y esto ha influido ciertamente sobre mi trabajo".[13] Para ella, cuando mira fuera de la ventana en Brisbane, una ciudad provincial que ahora se está transformando, esto es obvio. Para John Howard que ha pasado su vida en la ciudad australiana cosmopolita más vistosa, Sydney, nada de esto es aparente. Cuando se lo invitó a participar en un código o normas de todos los partidos sobre temas raciales a fines de 1996, un paso positivo después de algunos de los notables discursos del Senado en años previos sobre temas aborígenes, la oficina del Primer Ministro Howard emitió una declaración rechazando el proyecto diciendo "Él [Howard] aprendió todo lo que necesitaba saber sobre ética de sus padres fallecidos" (*Courier-Mail*, Brisbane 10-12-96). A pesar del indudable valor de los padres de Howard, crecieron y vivieron bajo la Política Blanca Australiana, una época en que las pieles oscuras en el país o en el extranjero eran consideradas deplorables y evitables. El trabajo de la Sra. Moffatt está ahora mostrando con otras obras de arte aborígenes lo viejo y lo nuevo en el Gran Hall del Hermitage de San Petersburgo. Por otro lado, cuando el Presidente de los EE.UU. hizo un viaje por Australia, los Clintons se interesaron en el arte aborigen y la consciencia del mismo sorprendió a Howard en su propio terreno en Sydney.

Tracey Moffatt y muchos otros aborígenes e isleños gráficos, actores y artistas literarios están contribuyendo efusivamente al mundo en general. (Dentro de Australia una muy buena exposición itinerante del arte del Estrecho Torres da ahora a los pueblos isleños la mayor visibilidad de la historia.[14]). Las poderosas y alterantes imágenes de la vida real, "estilo-Oz", emitidas en trabajos como el de Moffatt o el documental real y ficticio de Alexis Wright están muy lejos de los seguros motivos de canguros o cálidas imágenes de confraternidad blanca confortablemente disfrutadas por las elites conservadoras empresariales, deportivas y políticas de Australia.[15]

La corredora aborigen Cathy Freeman ha provocado controversia con radicales que resienten que se haya envuelto espontáneamente, en un rapto, en una bandera aborigen así como en una bandera australiana cuando ganó carreras en el extranjero en los años pasados. Ella es mucho más popular nacionalmente que, por ejemplo, John Howard, y junto con otros atletas indígenas se prepara para los Juegos Olímpicos de Sydney a fines del 2000 con mucha voluntad nacional. Por supuesto, los deportes de las ligas más importantes estaban racialmente integrados en EE.UU. mucho antes de que se enfrentaran los duros temas de los derechos civiles.

La intelectual aborigen, Larissa Behrendt, de la Universidad Nacional de Australia, recientemente retornada con su doctorado de la Facultad de Derecho de Harvard después de un desvío a través de los territorios cree del oeste de Canadá, escribió con una claridad, fluencia y accesibilidad en una serie de formatos y con una amplitud de miras que prometen una importante "próxima generación" de políticos aborígenes y presencia cívica. También escribe constantemente, firmemente basada en la vida indígena en los márgenes, sobre las pequeña complejidades mundanas y las marcas de ser aborigen en contextos ampliamente blancos.[16] En una corta obra sobre Australia y América del Norte, Behrendt concluye "Australia, una tierra de desechos de derechos humanos".[17] Pocos australianos instruidos estarían en desacuerdo. La política de Howard es de soslayar los temas indígenas, mientras que sólo prepara una cohorte de la época indígena más capaz y fuerte no lejana que destrozarán las ilusiones asimilacionistas, dejando todo para ser negociado de nuevo. Howard ha comenzado incluso a denunciar la "negociación" política en temas indígenas, o bien es una forma voluntariosa de pensar o si no es inconsciente de que la palabra es una metáfora para procesos sociales bien comenzados, no sólo para sentarse frente a frente en una mesa con un gran jefe aborigen.

Líderes distinguidos aborígenes e isleños son fáciles de conseguir. Cuando el gobierno de Howard nombró a Gatjil Djerrkura para suceder a Lowitja O'Donogue como presidente de ATSIC (Comisión para Aborígenes e Isleños del Estrecho Torres), la administración federal indígena conformada por consejos regionales indígenas electos y una Comisión Nacional de miembros electos por los consejos regionales, pensó que era una opción políticamente "segura". Pronto él estaba tomando firmes posiciones políticas sobre temas de derechos indígenas junto con otros líderes indígenas contra el gobierno de Howard. Incluso esto no pudo demostrar al gobierno que las etno-políticas eran un campo que requería mayor comprensión que meros populistas alineados. A fines de 1999 el primer presidente electo de ATSIC, que derrotó a

Gatjil Djerrkura quién muchos pensaban que iba a ganar, fue Geoff Clark. Clark, un ex boxeador, viene del colonizado territorio de Australia, el estado de Victoria. Él se enfrenta a fáciles presunciones sobre aboriginalidad porque es de piel clara. Él "llegó por el camino difícil" y puede ser un líder ideal. No sólo porque es tan rápido de pensamiento y lengua como en el ring de boxeo. Ningún líder indígena está mejor versado en derechos políticos y en la escena internacional de los derechos indígenas, y ninguno tiene una mejor comprensión de las políticas constitucionales. En sus primeros meses de funciones ha demostrado elegancia y facilidad para salvar las grandes divisiones de las políticas indígenas australianas – entre el sudeste, por un lado, y el remoto norte rural, oeste y centro, entre moderados y duros, entre aquellos que desean una demanda de soberanía y aquellos que ven la que "negociación" de la agenda indígena puede asumir muchas formas y utilizar muchas palabras sin abandonar el contenido.

El discurso Lingiari

Quizá la figura más destacada en el panorama político australiano y uno de los más confiados y respetados tanto por el público indígena y no-indígena es Patrick Dodson, impresionando con su gran presencia, gran voz, gran barba, sombrero y una clara voz irónica australiana cuyo contenido siempre es digno de ser oído. Pat Dodson ha soportado personalmente uno de las más resonantes bofetadas en la cara por el gobierno de Howard contra los aborígenes, pero su compromiso con la Reconciliación está intacto. En sus viajes y reuniones en todo el país encuentra mucha gente moviéndose en direcciones más positivas, como también lo encuentra el movimiento nacional no-indígena en apoyo de los pueblos indígenas, ANTaR.[18] (El hermano más joven de Dodson, con sombrero pero sin barba, Mick Dodson, es más familiar en las audiencias internacionales debido a su presencia articulada en años recientes en Ginebra y otras partes).

A fines de agosto de 1999, en honor de Vincent Lingiari, un hombre que fue un figura inspiradora para el movimiento moderno de los derechos indígenas, Pat Dodson resumió la situación actual en un discurso público.[19] Destacó que al contrario de la fantasía de los oponentes, el movimiento aborigen había desarrollado constantemente una responsabilidad durante años, surgiendo un consenso nacional sobre los temas a ser resueltos. Hizo un llamado por un proceso de discusión y de trabajo para brindar el renovamiento de las relaciones blanco-negro que el país está buscando. (Recientes encuestas de opinión confirman este sentimiento). Brindó una agenda con una frase o dos para la explicación de cada tema. Estaba definiendo un momento en la política indí-

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gena contemporánea. Alguien tenía un plan –un plan realizable y comprensible- y construido sobre lo que se había logrado ya, dejando lugar y tiempo para la información, reafirmación y aceptación que la comunidad no-indígena, o sus más resistentes políticos, necesitan enfrentar la realidad. El problema con los políticos populistas sentimentales de Australia, después de todo, es que no están relacionados con el mundo actual, el dolor diario de Australia, la diferencia y la recriminación.[20]

Dodson ofreció un paquete de contenido y proceso, dirección y espacio, para el compromiso. Una edición especial de la *Arena Magazine*, con sede en Melbourne, incluyendo personas que habían sido informadas por Dodson antes de su disertación y habían discutido su importancia con él, brinda un mayor contexto para los australianos no-indígenas.[21] Había derechos internacionales y las recientes vueltas de Australia en el limbo explicadas por Sarah Pritchar, la experta internacional indispensable para el movimiento aborigen;[22] el poder y la posibilidad de un proceso en la curación de la política indígena;[23] regímenes de derechos internos;[24] así como una obra reciente del editor que enfoca los grandes temas sobre la crisis del Territorio del Norte y está "hablando" de inglés.[25]

La agenda era moderada según normas internacionales, es decir, Nueva Zelanda, Alaska, el Norte del Canadá o Groenlandia, donde la retórica más dura fue negociada en una administración pública que funciona felizmente hoy. Comenzando con el Nº 1, "Igualdad", el dogma oficial de Australia, 2, "Identidades… diferenciadas", y 3, "Autodeterminación" concluyó con, p. ej., "Tierras y recursos"", 13 "Autonomía", 15, "Reconocimiento constitucional", 16, "Tratados y acuerdos", y 17, "Procesos en marcha" incluyendo "un foro de discusión, investigación, información y negociación para promover la consciencia pública y para redactar una legislación nacional para promulgar los principios del reconocimiento, las directivas para la política pública y el marco para la negociación del acuerdo referido antes".[26]

Problemas serios, un gobierno no serio

Un mes antes se alcanzó un punto muy bajo cuando el Senador Herron como ministro asistente del Primer Ministro en Asuntos Indígenas, entregó una declaración política a las Naciones Unidas en Ginebra.[27] Este documento notable (cuya lectura es altamente recomendable por su absurdidad) se revuelca en la degradación de las comunidades aborígenes e isleñas –una suerte de pornografía y privación- y luego pretende que las enfermedades sociales de la Australia aborigen fueron causadas por (a) "la autodeterminación" y (b) el ex gobierno laborista de Australia. Aunque la "autodeterminación" fue el ideal o

esperanza de los términos de relaciones públicas usadas por la política anterior, sería incorrecto imaginar que ha brillado sobre el horizonte oriental en este continente en tiempos recientes. Sin embargo, esa palabra esperanzada de la política pasada fue ahora usada por un gobierno que está meramente jugueteando con los asuntos indígenas.

Sin embargo, había en marcha un muy serio proyecto sobre los mismos temas. Un equipo de tareas de mujeres indígenas estaba viajando en Queensland para elaborar un informe único sobre la violencia experimentada por mujeres y niños indígenas.[28] Como comienza su sumario ejecutivo,

> *"La violencia en su forma más escandalosa se ha convertido en una parte de la vida cotidiana. Crímenes horripilantes ocurren regularmente y han circunstanciado en la mentes de los ancianos, los jóvenes y otros un nivel de temor previamente desconocido para la población australiana. El asesinato y otros crímenes violentos están destruyendo lo que tradicionalmente era el estilo de vida australiano.*
>
> *Sin embargo, para la mayoría de la personas, su contacto con la violencia es de segunda mano, a través del periódico o las noticias de la noche o una película. En muchos casos, el pueblo tiene una opción sobre si se permiten exponerse a la violencia o si la quieren evitar. Sin embargo, las Comunidades Aborígenes y de Isleños del Estrecho Torres no tienen el lujo de poder disociarse de la violencia. La alta incidencia de la criminalidad violenta en algunas Comunidades Indígenas, particularmente en las regiones remotas y rurales, está exacerbada por factores que no están presentes en la Comunidad Australiana más amplia".*

El compromiso y la resolución de problemas de las mujeres de Queensland y de otras mujeres aborígenes de toda Australia, es la columna vertebral de la supervivencia de su pueblo, por supuesto, como en otras regiones pobres y desposeídas ya sea en Irlanda o Noruega en tiempos pasados o en el centronorte de Canadá hoy. Ahora, algunas veces obtienen algún reconocimiento a través de las memorias de una generación más joven, o en forma dramática como en las grandes obras de teatro de Jack Davis (quien falleció la semana en que se escribe esto), *No Sugar* y *Barungin*. Un nuevo informe nos recuerda que existe una gran necesidad de un mayor trabajo de contacto internacional de las mujeres indígenas a lo largo de las líneas del movimiento Circumpolar.[29] Mientras tanto, es conmovedor ver a uno de los voceros más articulados de la

comunidad y pionero de los educadores indígenas, seguido por su hija, Olga Havnen – una de las más capaces políticos operativos del país o del extranjero.

No obstante, los serios problemas de la Australia negra han sido un recurso político para un gobierno nacional no serio. Al pretender que (a) hablar de derechos y políticas e identidad y cultura es una tonta "autodeterminación" que fue supuestamente traída por (b) las genuinamente espantosas enfermedades sociales que todos los ministros están ansiosos por recitar al mundo – es decir, por tratar de hacer jugar los dos lados del activismo político, el uno en contra del otro ... sí, es muy inteligente. Una fuerte declaración del líder aborigen de North Queensland, Noel Pearson contra los males de las comunidades dependientes del sistema de bienestar social ha sido usada en gran forma como si fuera una admisión culposa o valiente, a pesar de que es bien conocido para cualquiera involucrado en los temas indígenas durante años. Esta ha sido la política real del gobierno: un juego infantil de medios de difusión en vez de moralidad y seriedad – pero un juego requerido por los incesantes tropiezos del Primer Ministro y el Senador Herron. El populismo del gobierno ha destruido su credibilidad y autoridad frente al público informado, por supuesto.[30] Sus fintas desesperadas y el nuevo Impuestos a los Bienes y Servicios (GST) sobre la mayoría de los artículos lo desmoronan como el gobierno similar de Moroney en Canadá en 1993. Un momento de alegre alivio fue recientemente cuando se vio a Tanya Tampón, una mujer disfrazada como un tampón, echar al Primer Ministro fuera de la ciudad en su "vuelta por el monte" para recuperar votantes conservadores rurales, siendo su protesta contra su impuestos GST sobre los productos sanitarios de la mujer, como los tampones.

Un peligroso nuevo argumento que surge de gente bien intencionada es que los australianos no deberían *necesitar* apoyarse en normas internacionales para hacer lo correcto. Sí, los países del "primer mundo" deberían normalmente conducir y establecer las normas mediante sus acciones, pero en el clima actual eso parece imposible en Australia. ¡El gobierno de Howard se puede aferrar a este argumento para justificar la ignorancia de las normas internacionales aun más! Mientras tanto, puede asumir algún gesto simbólico sobre las sentencias obligatorias con la esperanza de que le sirva de subterfugio en la opinión pública entre la "fatiga de la compasión" y, como Molotov, negociar por Stalin, pretendiendo hacer una gran cosa al final en vez de hacer pequeñas pero confusas cosas por otro lado.

Final

El gobierno federal está preocupado sobre las protestas que "estropean" las Olimpíadas cuando la televisión mundial está observando, y muchas personas refunfuñan contra la propiedad, el valor o el efecto de protestar en contra de la religión nacional de Australia, el deporte. Por ahora, ha sido un niño muerto, encarcelado por robar lápices de colores baratos, que ha mostrado la cara desagradable del gobierno. Howard humilló a Kofi Annan frente a un país bien informado por los medios de difusión en base a maquinaciones de entretelones. La prensa ha tenido tantos editoriales condenatorios y urgentes sobre asuntos indígenas en febrero y marzo del 2000 como durante el ataque de Howard contra el título nativo en los años pasados. Entonces, el 17 de marzo, el Día de San Patricio, cuando los australianos con la mínima excusa de una conexión o afecto con los irlandeses se dirigen a la taberna por una Guinness, el Sydney Morning Herald, comenzó su gran historia del día:

> *"Esta semana, un informe de las Naciones Unidas vertió explosivas conclusiones políticas que ubicaron a Australia en directa violación de los convenios internacionales de derechos humanos sobre el tema de las sentencias obligatorias, entre la presión diplomática del Gobierno de Howard.*
>
> *Las conclusiones descartadas dijeron que las leyes violaban el Convenio de la ONU sobre los Derechos del Niño y numerosos instrumentos de derechos humanos sobre discriminación racial y la independencia del poder judicial".*[31]

El periódico también publicó oportunamente el informe completo tal como fue escrito antes de la interferencia australiana. Y luego, al día siguiente junto con el otro periódico, *The Age*, Melbourne, publicó extensos comentarios y exposiciones sobre cómo los diplomáticos australianos habían hecho su trabajo sucio. El país ha pasado seis semanas de angustia y furia sobre el chico muerto - ¿se podría decir algo más? El director de la Comisión nacional de Derechos Humanos dijo que sólo países como Birmania se comprometían en este tipo de violaciones de la ONU, mientras que los ex Miembros de la Alta Corte de Australia que pudieran estar de acuerdo o un poco más –Stephen, Gibbs, Mason, Brennan- condenaron las políticas de "justicia" de los gobiernos federal, Territorio del Norte y Australia Occidental.

El resumen más claro provino de cuatro reverenciados altos jueces de New South Wales, uno de los cuales, Fitzgerald, había limpiado la corrupción

política y policial que había casi destruido a Queensland a fines de los 80 y otro, Wood, que había hecho lo mismo en una etapa anterior en años recientes en New South Wales. Ellos escribieron en una carta pública publicada en el *Sydney Morning Herald*, el 17 y 18 de marzo:

> *"La incapacidad del proceso político nacional para lograr la reconciliación con los indígenas australianos y terminar con las sentencias obligatorias brindan una visión disturbante en cuanto a la operación práctica de la noción simplista de que la democracia es simplemente la voluntad de la mayoría .*
>
> *El racismo y la injusticia son males,' particularmente cuando tienen apoyo popular.*
>
> *Es injusto encarcelar a ofensores sin consideración de sus circunstancias personales, experiencia de vida, perspectivas de rehabilitación u otras sentencias más adecuadas.*
>
> *Es racista (y cobarde) promulgar e implementar leyes que se aplican más duramente contra una minoría desposeída. Puede pensarse que son políticas inteligentes, pero no es liderazgo apelar a la ignorancia y el prejuicio".*

El Juez Wood, cuando se le preguntó sí el debería criticar política, replicó que si los jueces no se expresaban sino que se resignaban dócilmente, podrían ser reemplazados hoy por personas sin ningún tipo de principios. Mientras tanto, los aborígenes y los isleños del Estrecho Torres y muchos australianos decentes no-indígenas necesitan amistad y apoyo de parte de los amigos del extranjero y todos los recursos morales disponibles en el país.

Notas

1 La sección final indígena dijo que el pueblo australiano estaba "honrando a los aborígenes e isleños del Estrecho Torres, el primer pueblo de la nación, por su profunda relación con sus tierras y por su antiguas y continuas culturas que enriquecen la vida de nuestro país. Howard luego agregó una cláusula a la propuesta prohibiendo a los jueces a usar las palabras cuando interpreten la ley, eliminando así con una mano lo que él había "dado" con la otra frente a los ojos de los líderes indígenas quienes, de cualquier manera, habían querido un lenguaje más fuerte, incluyendo la palabra "custodia".

2 'The trouble with northern territories', por P. Jull, *Arena Magazine*, abril-mayo 2000.

3 'Capitalism, culture and land rights', por N. Peterson, *Social Analysis*, 18, diciembre 1985, 85-101.

4 Far Country: A Short History of the Northern Territory, 3rd ed., por A. Powell, Melbourne University Press, 1996.

5 *Kakadu: The Making of a National Park*, Melbourne University Press, Melbourne. Sobre el caso Alta en inglés ver 'The Alta-Kautokeino Conflict: Saami Reindeer Herding and Ethnopolitics', por O.T. Brantenberg, *Native Power: The Quest for Autonomy and Nationhood of Indigenous Peoples*, ed. J. Brøsted et al., Universitetsforlaget, Oslo, 23-48.

6 Página 5, *Ngurra Walytia: Country of My Spirit*, por J. Downing, Australian National University North Australia Research Unit, Darwin, 1988.

7 'Burke says law and order...', ABC Online News, marzo 14, 2000.

8 Transcripción de ABC-TV's *Lateline*, Prime Minister's Media Centre, marzo 6, 2000.

9 La controversia, por supuesto, está entre aquellos que están deseosos de aceptar una declaración carente de sentido sobre la buena voluntad indígena y no-indígena, de las cuales ya existen innumerables, y aquellos que quieren algo con substancia y que prometa un cambio real.

10 'High Court Upholds Bush Tucker Rights', por Sean Brennan, Research Note 11 1999-2000, Parliamentary Library, Camberra.

11 E.g., 'Howard's Wik bill is racist, United Nations group finds', por Margo Kingston, Sydney Morning Herald, historia de primera página, marzo 20, 1999.

12 Transcripción de ABC's *AM Programme*, Prime Minister's Media Centre, febrero 18, 2000

13 Con G. Matt, p. 67, en *Tracey Moffatt*, ed. M Snelling, Colour & b/w images, Institute of Modern Art, Brisbane & Asialink, Melbourne, 1999. Online: www.ima.org.au

14 El catálogo de la exposición, *Ilan Pasin (Este es nuestro camino): Torres Strait Art*, ed. T. Mosby & B. Robinson, Cairns Regional Gallery, Cairns, Queensland, 1998, puede ser visto y comprado online: http://www.cairnsregionalgallery.com.au/ilanpasin/

15 E.g., Alexis Wright's account of Tennant Creek, *Grog War*, Magabala, Broome, WA, 1997, y novela del noroeste de Queensland , *Plains of Promise*, University of Queensland Press, Brisbane, 1997.

16 E.g., 'At the Back of the Class. At the Front of the Class: Experiences as Aboriginal Student and Aboriginal Teacher', Feminist Review, No. 52, Primavera 1996, 27-35.

17 'Righting Australia', *Arena Magazine*, No. 45, febrero-marzo 2000, 24-26.

18 Australians for Native Title and Reconciliation

19 *Until the Chains Are Broken*, 4th Annual Vincent Lingiari Memorial Lectures, Northern Territory University, Darwin, agosto 27, 1999.

20 Mientras que los años 40 puede parecer buenos en nuestras memorias infantiles, no eran demasiado divertidos para nuestros padres y abuelos en los convoys árticos, Guadalcanal, las ciudades bombardeadas de Europa, el territorio ocupado por el enemigo, o Auschwitz.

21 Living Indigenous Nations, being Arena Magazine, No 45, febrero-marzo 2000.

22 'From Welfare to Rights', *Arena Magazine*, No. 45, febrero-marzo 2000, 31-33.

23 'According Respect', por H Kajlich, *Arena Magazine*, No. 45, febrero-marzo 2000, 26-28.

24 'Righting Australia', por L Behrendt, *Arena Magazine*, No. 45, febrero-marzo 2000, 24-26.

25 'The Languages of Reconciliation', por Leanne Reinke, *Arena Magazine*, No 45, febrero-marzo 2000, 2-3.

26 Otra promisoria iniciativa liderada por la ex Senadora Margaret Reynolds quien estuvo a la vanguardia durante largo tiempo de los derechos indígenas en el Parlamento nacional de Australia, fue una reunión en julio de 1999 en Londres de pueblos y expertos de la Manconmunidad Británica. Ver *A Dialogue on Indigenous Rights in the Commonwealth*, ed. R. Bourne, M. Reynolds & H. Whall, Summary (Londres, julio 23, 1999) y Apéndices, Institute of Commonwealth Studies, Universidad de Londres, 1999.

27 Discurso en las Naciones Unidas por el Senador John Herron, Ministro de Asuntos Aborígenes e Isleños del Estrecho Torres, Ginebra, julio 29, 1999. Online: http://www.atsia.gov.au/fr_press.html

28 *Aboriginal and Torres Strait Islander Women's Task Force on Violence*, por Boni Robertson et al., Office of Women's Policy, Government of Queensland, Brisbane on-line: http://www.qldwoman.qld.gov.au/

29 *Different Lives, Common Threads: A Report From the Circumpolar Women's Conference*, por Kathryn Bennett, Dept of Government, University of Queensland, Brisbane, marzo 2000.

30 Quod Omnes Tangit – What Touches All Must Be Approved By All: John Howard's Populist Democracy and the Misconstruction of Citizenship, Rights and Justice for Indigenous People, por Jodhi Rutherford, trabajo no publicado, Dept. of Government, University of Queensland, Brisbane, febrero 20, 2000.

31 'Revealed: human rights whitewash' (!), por Mark Riley

EL PACÍFICO

Los pueblos indígenas y colonizados del Pacífico Sur contemplaron acontecimientos significativos en 1999. El referéndum de Timor Oriental llamó la atención internacional pero tuvo también efectos secundarios en la región del Pacífico Sur. La lucha de los pueblos indígenas de Papua Occidental por los derechos humanos y la autodeterminación ha tenido un nuevo surgimiento.

Las elecciones en muchos países del Pacífico durante 1999 plantearon agudamente la cuestión de los derechos indígenas: elección de un nuevo gobierno en Kanaky (Nueva Caledonia), con la participación del movimiento independentista *kanak*; la creación del Congreso Popular de Bougainville al final de una década de conflicto; y las elecciones de mayo de 1999 en Fiji, con la victoria de una coalición del Partido Laborista bajo una nueva constitución que intenta equilibrar los intereses de la comunidad *fijiana* e indo-fijiana y los electores en general.

Los estado isleños independientes del Pacífico están actualmente discutiendo nuevos acuerdos comerciales regionales, incluyendo un área de libre comercio bajo la influencia de la OCM y el nuevo Convenio UE-ACP (a ser firmado en las Islas Fiji en junio del 2000. Existen mucho interés en proteger el conocimiento indígena y los derechos de propiedad intelectual, ya que las corporaciones transnacionales explotan la rica biodiversidad de las islas y atolones dispersos.

Pero aunque trabajan para desarrollar nuevas estructuras regionales para enfrentar los efectos de la globalización para el siglo XXI, las Islas del Pacífico todavía están luchando con los legados del colonialismo de los siglos XIX y XX. Al final del Decenio de las Naciones Unidas para la Erradicación del Colonialismo, todavía hay muchos territorios no-autónomos en el Pacífico – la lucha de los pueblos indígenas se manifiesta frecuentemente como una lucha por la autodeterminación y la independencia política.

Kanaky (Nueva Caledonia)

Para el pueblo indígena *kanak* de Kanaky (Nueva Caledonia), la vida política y económica están gobernadas por la introducción del Acuerdo de Noumea en 1998 (ver *El Mundo Indígena 1998-9* por detalles del Acuerdo). La firma y la ratificación del Acuerdo de Noumea son frecuentemente presentados como un signo de acercamiento entre la coalición kanak independentista FLNKS, el partido colonizador conservador RPCR y el estado francés. Pero las elecciones de mayo de 1999 han demostrado que las tensiones históricas entre las fuerzas pro- y anti-independentistas siguen siendo fuertes. Mientras que el FLNKS domina en el norte rural y las Islas Loyalty, las elecciones para el nuevo gobierno han reforzado el control del RPCR sobre la Provincia del Sur, incluyendo la capital Noumea. A pesar de los avances realizados por el FLNKS durante la última década, queda claro que la transición a la independencia será una ardua lucha.

El Acuerdo de Noumea para Nueva Caledonia fue firmado el 5 de mayo por el gobierno de Francia, el FLNKS y el RPCR. A continuación de la firma,

la Asamblea Nacional francesa y el Senado aprobaron las enmiendas a la Constitución francesa, lo cual sucedió en una reunión conjunta del Parlamento en Versailles el 6 de julio de 1998. El acuerdo fue luego ratificado por casi el 72% de la población de Nueva Caledonia en un referéndum, el 8 de noviembre de 1998.

El 12 de marzo de 1999, el Parlamento francés promulgó una legislación para implementar la decisión del referéndum. Esto abrió el camino para las elecciones de mayo para nuevas instituciones políticas para el país:

- Tres Asambleas Provinciales, para la Provincia del Sur (40 escaños), la Provincia del Norte (22 escaños) y la Provincia de las Islas Loyalty (14 escaños).
- Un nuevo Congreso de 54 escaños constituido por 32 miembros de la Asamblea del sur, 15 del norte y 7 de las Islas Loyalty, electos por un término de cinco años.
- Un Gobierno ejecutivo de 11 miembros que reemplaza al Alto Comisionado francés como el organismo ejecutivo del país, y puede proponer leyes para ser adoptadas por el Congreso.
- Un Senado de 26 miembros para jefes tradicionales, que debe ser consultado sobre temas que afecten a la identidad kanak.

La mayoría de la población indígena kanak continúa manteniendo el apoyo al movimiento independentista. El FLNKS es una coalición de fuerzas políticas, incluyendo al partido mayor *Union Calédonienne* (UC) y el *Parti de Libération Kanak* (*Palika*). El FLNKS sigue siendo la mayor formación pro-independencia, pero figuras claves de la previa dirección del FLNKS se han separado para formar un nuevo grupo político – la *Fédération des Comités de Co-ordination des Indépendantistes* (FCCI).

A mediados de 1999, habían pocos signos de que el partido colonizador RPCR se estuviera dedicando a un proceso de descolonización o trabajando en sociedad con los líderes del movimiento independentista. El líder del RPCR, Jacques Lafleur declaró: "Nueva Caledonia nunca será independiente". El RPCR se ha movido para negarle posiciones al FLNKS en el Congreso, tomando el control de las comisiones parlamentarias. Como el RPCR no logró obtener una mayoría en el nuevo Congreso en las elecciones (ganando solamente 24 de los 54 escaños), Jacques Lafleur alió abiertamente su partido con la fracción FCCI para negar al FLNKS influencia en la política local.

El 28 de mayo de 1999, Jean Leques del RPCR fue elegido Presidente. El RPCR/FCCI tienen siete miembros en el nuevo gobierno mientras que el

FLNKS tiene cuatro: Roch Wamytan (UC), Déwé Gorodé (Palika), Gerald Cortot (UC) y Aukusitino Manuohalolo (RDO). El FLNKS esperaba que la Vicepresidencia iría para su líder Roch Wamytan, pero, en cambio, el RPCR usó su número para nombrar al líder del FCCI Leopold Joredie al cargo. El FLNKS ha protestando contra estas maniobras como un quebrantamiento del espíritu y la letra del Acuerdo de Noumea.

Las elecciones de 1999 para la Asamblea fueron también notables por la cantidad de mujeres electas de todos los partidos. Esto incluye a activistas independentistas como Nicole Waia, ex directora de la estación de radio kanak *Radio Djiido*, una de las nueve mujeres que entraron en el Congreso. El poeta, maestro y escritor kanak, Déwé Gorodé se suma al nuevo gobierno como uno de los cuatro representantes en pro de la independencia.

La nueva categoría de "ciudadanos de Nueva Caledonia", según la ley francesa, tiene importantes implicaciones para los pueblos indígenas, afectando los derechos al voto, inmigración y empleo.

La reversión de la inmigración fue un elemento crucial en las negociaciones del Acuerdo de Noumea, con vitales implicaciones para los derechos políticos, valores culturales y el empleo local. La creación de una "ciudadanía" de Nueva Caledonia (distinta de la "nacionalidad" francesa) fue un mecanismo legal para permitir la discriminación entre los funcionarios públicos y soldados franceses (que tradicionalmente votan contra la independencia) y la gente con un compromiso de largo plazo con la nación del Pacífico.

Sólo ciudadanos de Nueva Caledonia pueden votar para las Asambleas Provinciales y el nuevo Congreso – congelando efectivamente el cuerpo electoral en 1998, ya que sólo aquellas personas residentes durante diez años después de 1988 y sus descendientes en edad de votar, pueden participar en futuras contiendas electorales (no obstante, los ciudadanos de Nueva Caledonia retienen su nacionalidad francesa y pueden unirse a todos los otros franceses para votar para la Asamblea Nacional francesa y el Parlamento Europeo). Los líderes independentistas argumentan que el cambio demográfico y los límites a la inmigración de Francia creará un base para un voto sólido a favor de la independencia al fin del período de transición de 15 años.

Pero el 15 de marzo, el *Conseil Constitutionnel* (Corte Constitucional) en París, sentenció que todos los ciudadanos franceses residentes en Nueva Caledonia durante al menos 10 años –cualquiera que fuera su fecha de arribo– podrán participar en las elecciones provinciales. (La Corte evalúa si las leyes aprobadas por el Parlamento francés están de acuerdo con la Constitución francesa). Encolerizados por la eliminación de un elemento clave del Acuerdo, la dirección del FLNKS amenazó con boicotear las elecciones de mayo de

599

1999. El llamado al boicot fue recién retirado cuando el gobierno francés accedió a enmendar la Constitución otra vez. Como el Congreso francés no trató este tema al cancelar su reunión programada para el 24 de enero del 2000, la cuestión de los derechos a la ciudadanía quedaron en el limbo.

Algunos dirigentes sindicales kanak están preocupados de que la transferencia de poderes de París a Noumea después del 2000 creará nuevas presiones para el empleo de extranjeros, debido a la cantidad limitada de kanak con capacitación profesional y técnica. El censo de 1996 muestra que en las "profesiones liberales" hay 551 europeos, siete habitantes de Wallis, tres tahitianos pero solamente dos kanak. El desequilibrio continuará, ya que el RPCR ha tomado control de las responsabilidades claves en el gobierno referentes a asuntos económicos, finanzas, presupuesto, empleo, servicio público, capacitación y educación – dejando al FLNKS con juventud y deportes, cultura, salud y relaciones con el Congreso y el Senado.

El proceso de los Acuerdos de Matignon y Noumea ha aportado significantes influjos de subsidios gubernamentales e inversiones extranjeras a Nueva Caledonia sin que necesariamente beneficien a la población local. Como en la mayoría de las capitales del Pacífico, hay ahora una nueva afluencia de personas de las tierras rurales del interior a Noumea. La provincia del Sur fue antes considerada como un enclave europeo, pero el 25% de la población de la provincia es ahora kanak y el 18% isleña. Unos 8.000 intrusos en su mayoría kanak y de Wallis viven en *bidonvilles* en las afueras de Noumea.

El período pos-Matignon se ha caracterizado por un renacimiento cultural: grupos de música *kaneka*, que lanzan sus mensajes en su ritmo rock/reggae; publicaciones como *Mwà Véé*, que documenta el arte kanak, danza, lenguas e historia oral; exhibiciones de pintura y escultura de artistas kanak y poesía y teatro de escritores jóvenes.

Muchos kanak han dado la bienvenida a propuestas tales como la introducción de lenguas indígenas en el programa escolar; promoción de la reforma agraria; el retorno de objetos culturales y artefactos kanak que están en los museos y galerías en Francia y otros países; y negociaciones sobre el nombre, símbolos, himno y bandera del país.

Las organizaciones no-gubernamentales y comunitarias son también activas, con iniciativas para tratar temas de educación, salud y violencia contra las mujeres. Los intereses sobre una vivienda decente es una preocupación creciente pues más kanak se trasladan a Noumea. Las ONGs tratan de desarrollar programas de salud culturalmente apropiados para la comunidad indígena sobre Salud Maternal y del Niño y HIV/SIDA. Per capita, Nueva Caledonia tiene el segundo índice informado de infección HIV de las islas del

Pacífico, 69 casos por 100.000 personas. El índice más elevado se encuentra en la Polinesia Francesa.

Frente a la intransigencia del RPCR, el Presidente del FLNKS, Rock Wamytan, ha llamado a una "vigilancia" por parte de la comunidad internacional durante los cabildeos en el Comité de Descolonización de la ONU, el Grupo de Avanzada Melanesio y el Foro del Pacífico Sur. El Comité de Descolonización de las Naciones Unidas y el Foro del Pacífico Sur enviaron misiones especiales a Kanaky (Nueva Caledonia) en agosto de 1999 para estudiar el progreso en cuanto a la descolonización desde la firma de los Acuerdos de Noumea. La delegación de las Naciones Unidas incluía embajadores de Papua Nueva Guinea, Chile y Vanuatu. Al mismo tiempo, el Comité Ministerial sobre Nueva Caledonia del Foro del Pacífico Sur viajó a Noumea, en una visita de cinco días, para estudiar los desarrollos.

La solicitud de Nueva Caledonia de estatus de observador en el Foro del Pacífico Sur fue formalmente aprobada en la reunión de líderes del Foro en Palau, en octubre de 1999, y el país es ahora un observador oficial en las reuniones del Foro. El estatus de observador es otorgado al país como un todo en vez de al FLNKS como movimiento de liberación – aunque un político anti-independentista lidera el gobierno.

Te Ao Maohi (Polinesia Francesa)

El gobierno francés enmendará su Constitución más adelante en el 2000 para crear un nuevo estatuto de autonomía para Te Ao Maohi (Polinesia Francesa). La Polinesia Francesa tuvo primero un estatuto de autonomía en 1977. El estatuto fue enmendado en 1984, luego enmendado otra vez en la legislación del 12 de abril de 1996.

El nuevo proceso de reforma constitucional pasó por una serie de pasos en 1999. Se planteó un proyecto de ley y fue enviado al Consejo Territorial de Ministros el 26 de mayo de 1999. Luego fue adoptado por la Asamblea Nacional francesa y el Senado. Una vez aprobado por una reunión conjunta de ambas cámaras, será incorporado en la Constitución francesa como el Artículo 78 "Provisiones para Polinesia Francesa". (Una reunión programada del Congreso francés fue cancelada en enero del 2000 y el proceso de reforma está ahora en el limbo).

Según la nueva ley, Polinesia Francesa será un "país de ultramar" en vez de un "territorio de ultramar" de Francia, con mayor jurisdicción sobre los recursos marinos, comunicación y transporte. A nivel internacional, Polinesia Francesa podrá unirse a organizaciones regionales e incluso internacionales. Las autoridades francesas pueden otorgar al Presidente Flosse la autoridad

601

para negociar y firmar tratados. Será creada una "ciudadanía polinesia" (en contraste con la "nacionalidad francesa").

Sin embargo, a diferencia de la "ciudadanía de Nueva Caledonia" según el Acuerdo de Noumea en Nueva Caledonia, la ciudadanía polinesia no pone límites al derecho al voto en las elecciones Territoriales. Sólo crea derechos en relación al empleo, establecimiento de empresas y protección de la propiedad de la tierra. La nueva ley reserva derechos soberanos claves a Francia: nacionalidad, garantía de libertad pública, derechos civiles, ley electoral, justicia, ley penal, relaciones de ultramar, defensa, mantenimiento del orden, finanzas, créditos, cambio de moneda.

La diferencia fundamental entre Nueva Caledonia y Polinesia Francesa es que, según los Acuerdos de Noumea, existe un claro camino para Nueva Caledonia hacia un voto sobre autodeterminación e independencia, aunque ese voto ha sido demorado por 15-20 años. El actual estatuto de la Polinesia Francesa, sin embargo, no tiene previsiones para un referéndum sobre autodeterminación basado en los principios de la ONU de descolonización. A pesar de las mejoras de soberanía, el pueblo indígena *maohi* todavía está bajo el gobierno colonial francés.

En los años 1980 y 1990 Francia se opuso al interés de la Polinesia Francesa de unirse al Foro del Pacífico Sur. Pero recientemente, el gobierno francés ha impulsado fuertemente una participación mayor de sus colonias del Pacífico en el organismo regional intergubernamental de naciones isleñas independientes. En la reunión de octubre de 1999, el Comité de Oficiales del Foro sostuvo un extenso debate sobre el interés de Polinesia Francesa en un estatus de observador. El Foro estableció un comité para investigar el estatus político de Polinesia Francesa a continuación de los cambios constitucionales en París. Una misión especial del Foro a Tahití a mediados del 2000 intentará dialogar con todos los partidos de la colonia.

Activistas locales indígenas están haciendo campaña sobre el tema de corrupción en el gobierno, propulsada por el interés estratégico de Francia de mantener una administración pro-francesa en Papeete. El 24 de noviembre de 1999 un tribunal francés en París confirmó una condena de corrupción contra Gaston Flosse, Presidente de Polinesia Francesa y líder el partido conservador Tahoeraa Huiraatira. Flosse fue declarado culpable de ofensas relativas al "asunto Hombo", incluyendo la recepción de US$450.000 del propietario de un casino ilegal en Papeete. Las penas impuestas incluyen una multa de 100.000 francos, una sentencia de dos años de prisión suspendida y un año de pérdida de sus derechos civiles. Esta última pena es la más importante, ya que Flosse tiene la esperanza de liderar a su partido en las elecciones del 2001 para la

602

Asamblea Territorial y la pérdida de derechos civiles significaría que no sería elegible para cargos públicos durante un año (Flosse es actualmente el Presidente de la Polinesia Francesa y Senador por Polinesia Francesa). Un mes más tarde, Flosse fue condenado otra vez por corrupción, recibiendo otra multa y una sentencia suspendida por el "asunto Air Oceanie" (donde Flosse y funcionarios de Tahoeraa usaron ilegalmente viajes gratis para hacer campañas en las islas exteriores a comienzos de los años 1990).

Flosse está actualmente apelando la sentencia de la corte. Los líderes de la oposición han solicitado la renuncia de Flosse y en diciembre de 1999, el partido pro-independentista Tavini Huiraatira organizó una marcha de protesta contra Flosse.

Con el fin del programa de pruebas nucleares en 1996, Francia está comenzando a desmantelar su infraestructura militar en los atolones de Moruroa, Fangataufa y Hao. El Comandante de las Fuerzas Francesas en la Polinesia Francesa, Almirante Jean Moulin, anunció en enero del 2000 que la Legión Extranjera sería retirada de la Polinesia Francesa y la base militar en el Atolón Hao sería clausurada en agosto del 2000. El Centro de Pruebas Nucleares (CEP) y el ejército francés comenzaron a desmantelar las bases de Moruroa y Fangataufa en 1996. Sólo quedan instalaciones portuarias, una pista de aterrizaje y tres "bunkers" de cemento, mientras que las estaciones de monitoreo de las pruebas y los instrumentos sismológicos fueron devueltos a Francia en 1997.

El fin de la pruebas nucleares no ha terminado con la preocupación sobre los legados nucleares para la población indígena. El pueblo maohi todavía está realizando campañas contra los legados radioactivos de treinta años de pruebas en los atolones de Moruroa y Fangataufa y el impacto sobre la salud y el medio ambiente.

Desechos radioactivos de bajo nivel fueron enterrados en pozos de antiguas pruebas y luego cubiertos de cemento. Un informe de 1998 de la Agencia Internacional de Energía Atómica (IAEA) también descubrió que desechos de alto nivel radioactivo, incluyendo plutonio, fueron enterrados en dos pozos en Moruroa. Ocho kilogramos de plutonio todavía yacen en los sedimentos de las lagunas de Moruroa y Fangataufa. El volcado oceánico de cemento y piedras radioactivas de los bunkers utilizados para las pruebas de plutonio significó un quebrantamiento del Convenio de Desechos de Londres (el Convenio, firmado por Francia en 1993, prohibe el volcado de materiales radioactivos en los océanos).

Grupos maohi no-gubernamentales y líderes eclesiásticos de la Polinesia Francesa están haciendo campañas para que Francia abra sus archivos sobre

los treinta años de pruebas nucleares. Argumentan que la apertura de los archivos permitiría el acceso a datos importantes, que ayudarían al estudio detallado de la salud de miles de trabajadores maohi y militares y técnicos civiles franceses que eran el personal del sitio de las pruebas nucleares en Moruroa y Fangataufa entre 1966-96. Existe también una urgente necesidad de brindar cuidado y compensación a aquellas personas ya afectadas por enfermedades que ellos atribuyen a la exposición a la radioactividad.

El Ministro de Defensa francés ha clausurado los archivos por sesenta años. Sin embargo, en febrero de 1999 se celebró un importante seminario en la Asamblea Nacional francesa en París, para examinar las consecuencias de las pruebas. A continuación de su retiro como Secretario Ejecutivo para el Pacífico del Consejo Mundial de Iglesias, John Taroanui Doom coordinará un proyecto de tres años para procurar una mayor transparencia por parte de las autoridades francesas.

La 8ª Conferencia por un Pacífico Libre de Armas Nucleares e Independiente (NFIP) fue celebrada entre el 19 y el 24 de septiembre en Tahití, Te Ao Maohi (Polinesia Francesa). La conferencia contó con la participación de más de 100 representantes internacionales de grupos NFIP, junto con personal de recurso y oradores, observadores, y personal del Centro de Recursos de Intereses del Pacífico (PCRC) – el secretariado del movimiento NFIP. Fue la primera vez que una conferencia del NFIP pudo se celebrada en territorios ocupados por Francia en el Pacífico.

Las luchas por proteger el medio ambiente y los lugares sagrados a través de ocupaciones de tierra y la oposición a nuevos hoteles turísticos y canchas de golf se han convertido en una característica de la sociedad maohi. En años recientes, el gobierno Territorial ha estado tratando de impulsar la industria turística, para generar ingresos que reemplacen los gastos del ejército francés que fueron reducidos después de la finalización de las pruebas nucleares francesas en 1996. Bajo la *Loi Pons* y la *Loi Flosse*, a los intereses empresariales les han sido otorgados exención de impuestos e incentivos para construir nuevos hoteles turísticos, aunque los hoteles existentes no están trabajando a capacidad plena.

A comienzos del 2000, residentes y activistas del medio ambiente de la Isla Moorea, lanzaron una campaña para detener el drenaje de la laguna Moorea, para crear una playa para un hotel turístico. En febrero del 2000, residentes de Moorea rodearon el drenaje con canoas, para detener cualquier operación de drenaje en la laguna de Moorea. A las autoridades francesas se les solicitó enviar a los *gardes mobiles* (policía anti-disturbios) para retirar a los protestantes e introducir multas de US$10.000. El *huissier* del gobierno

(alguacil oficial) fue a Moorea para registrar los nombres de todos los que tenían una canoa en la laguna. Los protestantes se negaron a dar sus nombres y uno declaró "¡que antes de permitir que esta arena se fuera barata para una playa hotelera, moriría!"

Bougainville

La guerra en Bougainville entre 1989 y 1998 llevó a más de 12.000 muertos, en un choque entre el Gobierno de Papua Nueva Guinea y fuerzas rebeldes bajo el Ejército Revolucionario de Bougainville (BRA) y el Gobierno Interino de Bougainville (BIG). El Acuerdo Lincoln de 1998 comenzó un proceso de paz, que hacía un llamado a la retirada gradual de las tropas de las Fuerzas de Defensa de Papua Nueva Guinea (PNGDF) de la isla y el desarme del BRA y las fuerzas de resistencia pro Papua Nueva Guinea. Los habitantes de Bougainville se mostraron satisfechos por el fin del conflicto bajo un Grupo de Monitoreo de la Paz compuesto por Australia, Nueva Zelanda, Vanuatu y Fiji. Los esfuerzos de reconstrucción están en marcha bajo la supervisión de las fuerzas de mantenimiento de la paz del Pacífico Sur y las Naciones Unidas.

No obstante, la retirada total de las fuerzas militares de PNG de Bougainville, tal como estaba programado en el Acuerdo Lincoln, no ha sucedido. Como resultado, el BRA y las fuerzas de Resistencia no han abandonado sus armas, aunque el BRA ha presentado sus propuestas para un proceso de desarme al Comité Consultivo del Proceso de la Paz, que supervisa las iniciativas de paz en la isla. Por sobre todas las cosas, el tema fundamental de la autodeterminación no ha sido resuelto.

Se celebraron elecciones en mayo de 1999 para un nuevo Consejo Popular de Bougainville (BPC) el cual incluye a miembros electos y nombrados. En las elecciones de una semana de duración, el líder del Gobierno Interino de Bougainville (BIG), Joseph Kabui, fue electo sin oposición en base a una plataforma para la independencia de Bougainville. A continuación de las elecciones, Joseph Kabui obtuvo el cargo del Presidente del BPC a fines de mayo de 1999.

Así como los miembros electos, las diferentes fuerzas políticas nominaron candidatos para ser nombrados al Congreso: la Fuerza de Resistencia de Bougainville, el ex Gobierno de Transición de Bougainville (BTG), el Gobierno Interino de Bougainville (BIG) y las mujeres. El líder de BRA, Francis Ona, rechazó la oferta de Kabui de reservar escaños en el BPC para sus miembros y decidió no tomar parte en el proceso pues su vicepresidente Kabui se separó en abril de 1997.

605

Las negociaciones sobre el futuro estatus político de Bougainville se vieron demoradas en 1999 por las posiciones tomadas por los miembros parlamentarios de Bougainville en el Parlamente de PNG. Estos líderes argumentaron que Bougainville debería retornar a sus estatus como una de las provincias de Papua Nueva Guinea (tal como existía antes de que surgieran las hostilidades). Otro factor ha sido la posición del Consejo de Ancianos de Leitana basado en la isla septentrional de Buka, quienes también trataron de mantener la posición de Bougainville como una provincia de Papua Nueva Guinea.

El 30 de junio, el ex Primer Ministro de PNG, Bill Skate, firmó el compromiso de Hutjena con el Presidente de BPC Kabuir. El Acuerdo de Hutjena apeló por el más elevado nivel de autonomía y un referéndum sobre autodeterminación. El reemplazo de Skate como Primer Ministro, Sir Mekere Morauta, realizó subsecuentemente una oferta de mayor autonomía para Bougainville.

Después de una visita de dos días a Bougainville en octubre de 1999, el Ministro de Relaciones Exteriores y Asuntos de Bougainville, Sir Michael Somare, anunció que el Gobierno de PNG estaba dispuesto a ofrecer mayor autonomía a Bougainville, que se convertiría en autónoma excepto por la autodefensa, policía y relaciones exteriores. Exhortó a los líderes aceptar un concepto para desarrollar un nuevo tipo de gobierno con mayor autonomía. En respuesta, el Presidente de BPC, Kabui, declaró que una Bougainville autónoma todavía no cumple con las expectativas de los independentistas de línea dura de Bougainville.

En otro frente, después de una guerra verbal de casi dos años, el Consejo Laitena de Ancianos y el Congreso de Pueblos de Bougainville dejaron de lado sus diferencias en aras de trabajar juntos hacia un gobierno legítimo para el pueblo de Bougainville. Las dos agrupaciones celebraron oficialmente una ceremonia de reconciliación el 18 de octubre de 1999, a la cual otras fracciones y líderes fueron invitados a atestiguar. Los líderes de Bougainville entraron entonces en una serie de negociaciones en febrero y marzo del 2000, en las cuales hicieron un llamado por:

La implementación del "más elevado nivel de autonomía", garantizado por un tratado de Enmiendas a la Constitución de PNG que sólo puede ser cambiado por el pueblo de Bougainville. Un acuerdo para celebrar un referéndum sobre la independencia.

El 23 de marzo del 2000, Sir Michael Somare y representantes de Bougainville (Joel Banam del Consejo Leitana de Ancianos, el Gobernador de Bougainville John Momis, y el Presidente de BPC Kabuir) firmaron el Acuerdo de Loloata. Este último, en una serie de negociaciones incluía un

606

compromiso del gobierno de PNG para cambiar la Constitución de PNG para permitir un alto grado de autonomía. Un referéndum sobre autodeterminación será recién celebrado después que la autonomía haya sido probada durante un período no especificado. El portavoz internacional de BPC, Moses Havivi, expresó preocupación de que "el proceso de autonomía y referéndum no fueron encarados en términos concretos y ciertos".

A pesar del nuevo Acuerdo Loloata, muchos líderes de Bougainville están preocupados porque Papua Nueva Guinea, apoyada por Australia, está resistiendo el proceso de transición que conduce a la independencia. Papua Nueva Guinea no ha cumplido sus obligaciones de retirar las tropas de las Fuerzas de Defensa de PNG de la isla, y el tema de la paz y la autodeterminación en Bougainville sigue sin ser resuelto.

Papua Occidental (Irian Jaya)

El voto del 30 de agosto de 1999 en Timor Oriental ha tenido un impacto significativo sobre los desarrollos en Papua Occidental, la antigua colonia holandesa que constituye la mitad occidental de la isla de Nueva Guinea. Papua Occidental ha estado bajo el control indonesio desde el Acuerdo de Nueva York en 1963 y la Ley de Libre Opción de 1969. Pero existen rápidos cambios en marcha después del colapso del régimen de Suharto, la lucha por la independencia en Timor Oriental, el conflicto en Aceh y las Molucas y la creciente movilización de base en Papua Occidental.

Hace tiempo que ha habido un fuerte sentimiento nacionalista entre los indígenas *papuanos* occidentales. Esto se ha manifestado en una variedad de formas: la música y las representaciones culturales del asesinado intelectual Arnold Ap; las décadas de prolongada lucha de guerrilla de la *Organisasi Papua Merdeka* (OPM); la organización en redes eclesiásticas de la iglesia católica y protestante o entre las organizaciones comunitaria como LEMASA del pueblo *amungme*.

Los llamados por la independencia han sido criminalizados por el régimen indonesio, con el encarcelamiento de gente por levantar la bandera de Papua Occidental. La bandera de la Estrella de la Mañana fue izada por primera vez el 1 de diciembre de 1961, cuando el país era todavía una colonia de Holanda. Durante los años 70 y 80, las autoridades indonesias se opusieron a cualquier uso de este símbolo de identidad melanesia y deseo de autodeterminación. Sin embargo, durante 1999 el izamiento de banderas y otras expresiones del sentimiento pro-independencia se convirtieron en un lugar común. La reunión de febrero de 1999 entre el ex Presidente indonesio B. J. Habibie y cien líderes de Papua Occidental, de las iglesias, comunidades y tribus –el

Equipo de los Cien- contempló una expresión pública del sentimiento pro-independencia sin precedentes.

Durante 1999 han aparecido llamados abiertos por la autodeterminación y la independencia en muchas partes del país:

- En julio, cinco hombres fueron presentados ante la corte de Jayapura acusados de subversión, después de un izamiento de bandera donde asistieron 100 personas el 1 de julio en Genyem (en el subdistrito de Nimboran cerca de Jayapura).
- Para protestar por la decisión de Indonesia de separar a Irian Jaya en tres provincias distintas, miles de personas marcharon en la capital Jayapura el 14 de octubre y ocuparon la oficina del gobernador. Otras mil personas marcharon en Nabire, mientras que 350 marcharon a la oficina del jefe del distrito en Biak. Incluso cien estudiantes de Papua Occidental protestaron en Yakarta, fuera del hotel donde se alojaban delegados del Parlamento de Indonesia.
- Miles manifestaron en Merauke el 22 de octubre, haciendo llamados por la independencia y criticando la nueva estructura provincial (mientras que la multitud pacífica se reunía en la Asamblea local, provocadores atacaron edificios gubernamentales vecinos, conduciendo a la intervención del ejército indonesio).
- El 1 de noviembre, nueve activistas fueron juzgados en Sorong, acusados de rebelión según el código criminal de Indonesia.
- El 1 de diciembre de 1999, decenas de miles de personas manifestaron en toda Papua Occidental para ver la bandera de la Estrella de la Mañana ser izada en pueblos y aldeas en todo el país. La ceremonia marco el 38 aniversario de la declaración de la independencia de Papua Occidental de Holanda.

En Timika, miles de personas se reunieron en la iglesia católica e izaron la Estrella de la Mañana el 10 de noviembre. Timika está ubicada cerca de la mina de cobre y oro Grasberg operada por una subsidiaria de la corporación de los EE.UU., Freeport McMoRan. A pesar de los llamados indonesios para que la bandera fuera bajada, grupos culturales de diferentes comunidades indígenas establecieron tiendas de campaña y en la medida en que el pequeño campamento creció, las paredes de la iglesia fueron cubiertas con pancartas, consignas pro-independentistas y la prohibida bandera Estrella de la Mañana.

La bandera Estrella de la Mañana permaneció flameando en Timika hasta el 1 de diciembre, cuando tropas indonesias y policías intervinieron. Cin-

cuenta personas fueron heridas cuando las fuerzas indonesias abrieron fuego contra una multitud de unos 2.000 manifestantes.

El 30 aniversario del voto de la ONU de la Ley de Libre Opción el 19 de noviembre y los izamientos de bandera de diciembre en Papua Occidental fueron apoyados por acciones de solidaridad en muchos países del mundo. En Yakarta, 200 papuanos occidentales y sus simpatizantes marcharon al complejo del Parlamento MPR pidiendo la autodeterminación. Los manifestantes portaban pancartas que decían "Autonomía, federalismo, ¡No! Independencia, ¡Sí!" y "Las mujeres de Papua Occidental no tienen libertad".

Estas protestas están provocando lentamente una respuesta. El Ministro holandés de Relaciones Exteriores informó al Parlamento en diciembre de 1999 que él no tenía ninguna objeción contra una re-examinación histórica del traspaso de la soberanía de la antigua Nueva Guinea Holandesa (Papua Occidental). El nuevo Presidente de Indonesia Abdurrachman Wahid realizó una visita aérea a la provincia conocida por los indonesios como Irian Jaya en diciembre de 1999. Como soborno al sentimiento nacionalista, Wahid anunció que el nombre de la provincia sería cambiado a Papua. Mientras que los líderes de Papua han dado la bienvenida a la creciente atención del Presidente Wahid sobre Papua Occidental, esto no ha disminuido las demandas por la independencia. La oferta de Wahid de un paquete de autonomía para Papua ha sido rechazado, pero los líderes dicen que la lucha por la independencia será pacífica.

Los participantes del primer Congreso de Papua Occidental, celebrado en el territorio ocupado por Indonesia desde el 23 al 26 de febrero del 2000 exigieron la independencia y rechazaron el resultado de la Ley de Libre Opción de 1969. Al congreso de cuatro días asistieron más de 2.000 simpatizantes en Port Numbay (Jayapura) y transcurrió pacíficamente bajo los ojos observadores de un personal de seguridad local de 1.000 efectivos. Los participantes del Congreso decidieron establecer un Consejo Presidencial de Papua, al cual se le encomendó la tarea de preparar un congreso mayor, programado para abril del 2000. El Presidium está integrado por líderes tribales, mujeres, jóvenes y estudiantes así como académicos locales y delegaciones del extranjero. El congreso eligió a Theys Eluay y el líder amungme Tom Beanal como jefes ejecutivos del Consejo Presidencial de Papua. La declaración del Congreso dice que:

> *"Es nuestro deseo elegir la libertad y separarnos de la República de Indonesia, tal como fue manifestado por el pueblo de Papua al Presidente Habibie y los miembros de su gabinete de reforma el 26 de fe-*

brero de 1999 en el palacio presidencial. Procuraremos un diálogo y formas pacíficas y democráticas para realizar los deseos del pueblo de Papua Occidental para asegurar el acuerdo con el gobierno indonesio".

Guam

La isla micronesia de Guam fue colonizada por los Estados Unidos de América después de la Guerra Hispano-Americana de 1898. En décadas recientes, el pueblo indígena *chamorro* ha realizado campañas por la autodeterminación.

Como Nueva Caledonia y Timor Oriental, el territorio americano de Guam fue puesto en la lista del Comité de Descolonización de las Naciones Unidas de territorios no-autónomos en 1946. El pueblo chamorro de Guam no ha recibido mucho apoyo de otras naciones del Pacífico Sur en su búsqueda de la autodeterminación. Sin embargo, el comunicado del 30º Foro del Pacífico Sur, celebrado en Palau en octubre de 1999 declara que: *"Los Líderes recibieron y anotaron la solicitud de Guam de apoyo del Foro en sus negociaciones con los Estados Unidos".*

Esta sola frase es la primer mención formal del estatus político de Guam en un comunicado del Foro. Es el resultado del trabajo de "lobby" de los funcionarios de Guam en el Foro de Palau, buscando el apoyo del Foro para poner fin al estatus de Guam como territorio de los EE.UU. y redefinir su relación colonial con los Estados Unidos. El pueblo chamorro de Guam celebrará una votación para determinar su estatus político antes del 4 de julio del 2000, después de la creación de un registro electoral del pueblo chamorro.

Después de cientos de años de ocupación española, los Estados Unidos ocuparon Guam después de la Guerra Hispano-Americana de 1898. La isla ha sido usada como un sitio estratégico para las intervenciones mundiales de los EE.UU. – más de un tercio de la isla es usada por bases militares de los EE.UU. El ejército de los EE.UU. utiliza islas vecinas para prácticas de bombardeo y las tripulaciones de los bombarderos B-52 que fueron entrenadas en Guam en abril de 1999 fueron desplegadas en Europa para la guerra de la OTAN contra Yugoslavia.

En 1982, los habitantes de Guam votaron por impulsar un Estatus de Mancomunidad dentro de los Estados Unidos como un paso interino hacia la independencia. El 5 de diciembre de 1981 los chamorro formaron la Organización Popular por los Derechos Indígenas, creyendo que el próximo voto por el estatus político no incluiría a todos los ciudadanos de los EE.UU. sino que estaría limitado a los pueblos indígenas de Guam, que se han convertido

en una minoría en su propia tierra. Desde ese momento, los miembros de OPIR y otras organizaciones chamorro han hecho trabajo de "lobby" en reuniones locales, nacionales e internacionales para procurar apoyo para el derecho a la autodeterminación del pueblo chamorro.

Mientras que continúa negociando con el gobierno de los EE.UU., la Comisión de Descolonización de Guam tiene un mandato para vincular este proceso a las previsiones de descolonización según el derecho internacional. En octubre de 1999, el Gobernador de Guam, Carl Gutiérrez, y representantes de OPIR viajaron a Nueva York para testimoniar en el Cuarto Comité (Especial Político y de Descolonización) de la ONU. El Gobernador Gutiérrez pidió al Cuarto Comité de las Naciones Unidas que enviara una misión de visita a Guam en ocasión de la votación por la autodeterminación. Rufo Lujan, de la Organización Popular por los Derechos Indígenas (OPIR) relató en el Cuarto Comité de la ONU sobre la lucha chamorro por identidad:

"Estamos hablando sobre la frase atractiva 'pueblo de Guam' y durante diecisiete años se ha tratado repetidamente de aclarar su significado. Creemos que está siendo usada por algunos sin pensar, para evitar asumir la plena responsabilidad de quién tiene el derecho a descolonizar el territorio no-autónomo de Guam.

En base a este informe original a la ONU en 1946, es obvio que los términos 'nativos de Guam', 'chamorros', 'guamanianos' y 'habitantes de Guam' son el mismo pueblo y es el pueblo de Guam. Nosotros somos los que somos discutidos con el propósito de cumplir con la obligación del artículo 73 de la Carta de las Naciones Unidas. Nosotros somos los afectados por el lenguaje de las resoluciones de la Asamblea General y nosotros somos los que podemos sufrir como resultado de malas interpretaciones. Si no existieran chamorros, ningún habitante nativo, no habría una cuestión de autodeterminación o descolonización.

La Ley Orgánica para Guam de los EE.UU. de 1950, creada por el Congreso de los EE.UU., es el documento que nos gobierna y reconoce claramente nuestra existencia política separada como pueblo chamorro. En virtud de la Ley Orgánica, sólo ciertas porciones de la Constitución de los EE.UU., tratados y leyes de los Estados unidos nos son aplicables. El Congreso de los EE.UU. puede retirar legislativamente la ciudadanía de los actuales guamanianos que resi-

den en la isla (algo que no puede hacer en los 50 Estados de los EE.UU. o incluso con ciudadanos residentes en naciones extranjeras). No podemos votar por el Presidente de los EE.UU. y no tenemos una representación votante en el Congreso que tiene poderes plenarios sobre nosotros.

Nosotros pedimos formalmente que Guam no sea eliminada de la lista de territorios no-autónomos del Comité Político Especial y de Descolonización de la ONU, estando pendiente el logro del estatus político elegido para descolonizar el territorio a través de la autodeterminación del pueblo chamorro. Guam tiene un solo pueblo que está colonizado y bajo el ojo protector de las Naciones Unidas. Nosotros, el pueblo chamorro, 'I taoto tano' – el pueblo de la tierra".

En Guam, las organizaciones chamorro están haciendo campañas activas para el retorno de la tierra a los dueños originales. Los propietarios rurales chamorro solicitan la devolución de la tierra tomada por las bases militares durante la Guerra Fría. Durante los años 90, el ejército de los EE.UU. ha comenzado a devolver algunas tierras a través de la Comisión de la Clausura y Realineamiento de la Base (BRAC). No obstante, mucha tierra ha sido dada a otras agencias de los EE.UU. o al gobierno Territorial, en vez de a los propietarios originales chamorro.

Grandes cantidades de tierra, sumando casi el 20% de la isla, han sido dadas al Departamento del Interior de los EE.UU. como "reservas de la fauna". Aunque están satisfechos con la importancia de las reservas naturales, los activistas chamorro están temerosos de que estas tierras pudieran ser reclamadas por el ejército de los EE.UU. en tiempos de crisis futuras.

Grupos chamorro han formado la Coalición de Chamorros Colonizados (CCC), haciendo un llamado por el retorno de la tierra militar excedente a los propietarios rurales originales. Los miembros del CCC incluyen a la Organización Popular por los Derechos Indígenas (OPIR), Nasion Chamoru, la Coalición Ancestral de Propietarios Rurales, la asociación Ritidian Family, la Fuetsan I Famalao'an Chamoru, y la Asociación Familian Felisa. En una carta del 30 de septiembre a las autoridades de Guam, la Coalición establece:

"Nosotros, la Coalición de Chamorros Colonizados, estamos firmes en nuestra resolución de que las tierras de los colonizados deben ser devueltas a sus propietarios rurales originales, expeditiva e incondicionalmente".

612

La Coalición de Chamorros Colonizados ha lanzado una serie de protestas en los meses recientes para realzar sus demandas. En octubre de 1999, los propietarios rurales chamorro entraron en un refugio de la fauna en Ritidian Point en Guam, administrado por el Servicios de Pesca y Fauna de los EE.UU. La tierra fue apropiada por el ejército de los EE.UU. después de la Segunda Guerra Mundial. En 1994, el Departamento de Defensa de los EE.UU. clausuró un emplazamiento de comunicaciones navales en Ritidian Point, y transfirió el control de la tierra al Servicio del Departamento del Interior de los EE.UU. de Pesca y Fauna. En desafío a las prohibiciones de acampar durante la noche, del 8 al 11 de octubre miembros de las familias Pangelinan, Castro, Aguero y Flores acamparon en la playa, en sus tierras tradicionales. Los funcionarios de la Fauna de EE.UU. tomaron los números de los automóviles de los manifestantes y emitieron multas de US$100 por quebrantamiento de la reglamentaciones del parque. El 11 de octubre, más de 100 miembros de familias propietarias rurales y sus simpatizantes marcharon desde su campamento a la oficina del Servicio de Pesca y Fauna de los EE.UU. en Ritidian Point.

El propietario rural Juan Flores dijo que los dueños originales nunca tuvieron la oportunidad de usar su parcela de 317 acres de tierra después de que fue apropiada por el Gobierno de los EE.UU. Flores declaró: "Queremos que nos devuelvan nuestra tierra. La tierra está siendo escasa y nuestras familias crecen. ¿Cómo vamos a satisfacer las necesidades de nuestras futuras generaciones, si no podemos sustentarlos ahora? Por eso es que estamos protestando para mostrar a aquellos que disponen de autoridad de que llegó el momento de que nos devuelvan nuestra tierra".

El 14 de enero del 2000, la Coalición manifestó, en ocasión de una visita de congresales de los EE.UU. en un viaje de inspección de las bases militares de los EE.UU. en Guam. La Coalición hizo un llamado por a) devolución de las tierras excedentes bajo control federal; b) cambios en el estatus político; c) reparaciones de guerra por los daños ocurridos en la Segunda Guerra Mundial; y 3) limpieza medioambiental de las tierras usadas por el ejército de los EE.UU. y otras agencias federales. La coalición celebró una segunda protesta en enero del 2000 contra el arresto de Angel Santos, un activista chamorro de larga data y ex Senador de Guam. Las autoridades de los EE.UU. sentenciaron a Santos a seis meses de cárcel por continuar su protesta sobre el robo de la tierra de su abuelo.

Ka Pae'aina (Hawai'i)

En el período de 1994 a 1998, el Estado de Hawai'i creó un Consejo Electoral de Soberanía Hawaiaana (HSEC) para que celebrara una Convención Consti-

tucional Nativa Hawaiiana. En 1998, HSEC se convirtió en *Ha Hawaii* no-gubernamental. En enero de 1999, sólo 8.867 votantes *Ha Hawaii* – de 101.951 registrados por la oficina de Asuntos Hawaiianos (OHA) – eligieron a 78 delegados a la Convención Nativa Hawaiiana de 85 escaños, dejando siete escaños vacantes.

Entre el 5-11 de diciembre de 2000, el gobierno de los EE.UU. organizó Audiencias Públicas de Reconciliación en cinco de las principales islas de Ka Pae'aina (Hawai'i). Las audiencias llegaron seis años después de la Resolución de Disculpa del Congreso de los EE.UU. en 1993 (Ley Pública 103-150). Según esta ley, el gobierno de los EE.UU. pidió disculpas al pueblo *kanaka maoli* por el rol de los Estados Unidos en el derrocamiento ilegal del Reino de Hawai'i en 1893. La resolución hizo un llamado por una indefinida "reconciliación" entre los Estados Unidos y el pueblo kanaka maoli.

Durante las audiencias de diciembre, más de 500 kanaka maoli testimoniaron frente al Secretario Asistente del Interior de los EE.UU., John Berry, y el Director de Justicia Tribal de los EE.UU., Mark Van Norman. Los testimonios de los kanaka maoli afirmaron que la nación kanaka maoli existe separadamente de los Estados Unidos y es extraña al mismo. Por lo tanto, el Presidente de los EE.UU. y/o su Secretario de Estado deberían reunirse con los representantes de la nación kanaka maoli como iguales, para definir y negociar una "reconciliación". La Orden Real de Kamehameha rehusó participar en las audiencias y en cambio, presentó una nota de protesta. En Hilo, en la isla de Hawai'i, Kihei Soli Niheu adquirió notoriedad por "mostrarles el trasero" a los funcionarios de Washington, pidiéndoles que les enviaran este mensaje al Presidente Clinton.

Las formalidades de la audiencia también recibieron críticas. Se exigieron testimonios escritos por adelantado y las presentaciones orales fueron limitadas a 2-3 minutos. En Honolulu, cuando a la Administradora de la Oficina de Asuntos Hawaiianos (OHA), Mililani Trask, no le fue permitido exceder tres minutos, ella se retiró. Cuando Pomaika'iokalani Kinney habló sobre la independencia kanaka maoli más de tres minutos y fue amenazado con ser retirado por las fuerzas de seguridad, una docena de kanaka maoli de la audiencia se pararon en torno a él hasta que completó su testimonio.

Los oradores acusaron repetidamente a los funcionarios de los EE.UU. por violar la autodeterminación kanaka maoli, limitando la discusión de "la relación política de los kanaka maoli con los Estados Unidos dentro del marco de la Ley Federal". Los testigos señalaron que la única ley interna era la Ley Federal India, que prevé un reconocimiento de los Estados Unidos de las tribus indígenas como "naciones domésticas dependientes" y "protectoras",

"sometidas al poder plenario del Congreso". Los testigos acusaron a los Estados Unidos de violación de su "sagrada administración " frente a las Naciones Unidas para promover la autodeterminación kanaka maoli cuando los Estados Unidos procedieron con su fraudulento proceso de "estatización" en 1959. Sin embargo, cuando los oradores kanaka maoli hicieron un llamado a los Estados Unidos para que apoyaran la reinscripción de Ka Pae'aina en la lista de Territorios No-Autónomos dela ONU elegibles para la descolonización, Berry replicó que él no tenía autoridad para proseguir procesos y derechos internacionales para aquellos que estaban fuera del ámbito de su Departamento del Interior.

Un mes después, el 14 de enero del 2000, la fecha límite para la presentación de testimonios en las Audiencias de "Reconciliación", la recientemente reorganizada Junta de Administración OHA aprobó un testimonio de OHA de 29 páginas. A pesar de las vigorosas protestas de la comunidad kanaka maoli en la reunión de la junta, los administradores de OHA pidieron que:

- El Presidente de los EE.UU. y las agencias Federales formalicen e implementen la relación política administradora entre los nativos hawaiianos y los Estados Unidos equivalentemente al estatus legal y político de los nativos americanos.
- El gobierno de los EE.UU. establezca un Tribunal para las demandas de los Nativos Hawaiianos similar al Tribunal Waitingi en Aotearoa (Nueva Zelanda).
- Los Estados Unidos apoyen y faciliten la autodeterminación y la organización de una Convención Nativa Hawaiiana.
- Se establezca un Oficina de Asuntos Hawaiianos separada en el Departamento del Interior de los EE.UU.
- Los Estados Unidos y OHA determinen las tierras que deberían ser devueltas al pueblo nativo hawaiiano y evalúen pagos de intereses por el uso de los Estados Unidos de las tierras "cedidas", mientras que el Departamento del Interior imponga un congelamiento sobre venta, intercambio y transferencia de las tierras "cedidas" hasta que las demandas nativas hawaiianas sean resueltas.

Cambio económico en las Islas del Pacífico

Así como en otras regiones, los pueblos indígenas de las Islas del Pacífico han luchado bajo el impacto de una serie de programas de ajuste estructural, patrocinados por el Banco Asiático de Desarrollo (ADB) y el FMI. Los programas de "reforma" del ADB han sido dirigidos hacia la liberalización del

comercio, reducción del tamaño de los servicios públicos y programas de eficiencia gubernamental.

Hay serios impactos en países donde las instituciones del sector público son importantes empleadores. Bajo los programas de reforma patrocinados por el ADB han habido grandes recortes en el tamaño del sector público. En las Islas Cook, el 57 por ciento del personal del gobierno fue despedido entre 1996-98. Hubo significativas reducciones en los empleados del gobierno en otros países del Foro: los Estados Federados de Micronesia (recorte del 37 por ciento entre 1996 y enero de 1999); Islas Marshall (recorte del 33 por ciento entre octubre de 1995 y marzo de 1999); Islas Salomón (recorte del 6 por ciento entre 1996 y marzo de 1999); y Vanuatu (recorte del diez por ciento entre enero de 1998 y febrero de 1999).

Otro cambio significativo es la negociación de un nuevo "arreglo de cooperación" entre la Unión Europea (UE) y los 71 miembros del grupo ACP de países africanos, caribeños y del Pacífico. En febrero del 2000, los gobiernos de ACP y UE concluyeron un nuevo acuerdo de relaciones de gobierno entre las naciones europeas y sus antiguas colonias en el mundo en desarrollo. El nuevo acuerdo, a ser firmado en Suva (capital de las Islas Fiji) en junio del 2000, cubre derechos humanos, comercio, ayuda e inversiones. Reemplaza el Convenio de Lomé, que ha regido las relaciones UE-ACP durante los últimos 25 años.

Actualmente, hay siete países y territorios del Pacífico Sur en el grupo ACP: las tres colonias francesas (Nueva Caledonia, Polinesia Francesa y Futuna) y ocho miembros del Foro del Pacífico Sur (Islas Fiji, Kiribati, Papua Nueva Guinea, Samoa, Islas Salomón, Tonga, Tuvalu y Vanuatu). La política del Foro ha sido buscar la participación de otras seis islas miembros del Foro en el proceso pos-Lomé (la República de las Islas Marshall, los Estados Federados de Micronesia, República de Palau, Niue, Nauru y las Islas Cook).

La región del Pacífico ha recibido muy poco comparado con África y el Caribe bajo el acuerdo Lomé. En Lomé II (1980-1985) el Pacífico recibió el 6,2% de los fondos totales disponibles para los países de ACP. De 1985 a 1990 (Lomé III), fue el 5,8%, y de 1990 a 1995 (Lomé IV) esta cantidad disminuyó al 3%.

Los socios UE-ACP acordaron nuevos acuerdos comerciales basados en las siguientes iniciativas:

- Concluir nuevos arreglos comerciales compatibles con la OMC, eliminando progresivamente barreras de comercio entre ellos y mejorando la cooperación en todas las formas de comercio.

- El período preparatorio para el nuevo acuerdo comercial finalizará el 31 de diciembre del 2007.
- Los protocolos de mercancías donde la UE ofrece acceso al mercado libre de impuestos para ciertos productos de ACP (carne de vaca, de ternera, ron, bananas, etc.) serán revisados en ese momento.
- Los Acuerdos de Cooperación Económica serán negociados durante el período preparatorio. Las negociaciones comenzarán en el año 2002.

La creciente presión para que las políticas comerciales, bancarias e inversionistas sean compatibles con la OMC está también teniendo impacto en los países isleños del Pacífico. Tres países de las Islas del Pacífico son miembros plenos de la Organización Mundial del Comercio (OMC) –las Islas Fiji, Papua Nueva Guinea y las Islas Salomón- y otros tres países están actualmente solicitando su integración. El Secretariado del Foro está desarrollando un diálogo ente los gobiernos miembros del Foro sobre la creación de un Área de Libre Comercio (FTA) para los Países Isleños del Foro. Australia y Nueva Zelanda están haciendo trabajo de "lobby" para su inclusión en el FTA, diseñado para asistir a los pequeños estados isleños a enfrentar su vulnerabilidad frente a los rápidos cambios económicos, sociales y ambientales.

Los gobiernos del Pacífico están también cabildeando en las Naciones Unidas para revisar los criterios de la ONU para definir la pobreza, para que tomen en cuenta la situación especial de los pequeños estados isleños y su vulnerabilidad frente al cambio económico, social o ambiental. Esto fue una característica del debate de abril de 1999 sobre desarrollo sustentable en los Estados Isleños Pequeños en Desarrollo en la Comisión de la ONU sobre Desarrollo Sustentable y la Sesión Especial de septiembre de 1999 sobre los Estados Isleños Pequeños en Desarrollo.

Mujeres del Pacífico

Como en todo el resto del mundo, las mujeres indígenas en el Pacífico han estado evaluando los resultados de la Cuarta Conferencia Mundial sobre la Mujeres en Pequín en 1995, y preparándose para la conferencia de Mujeres 2000, la "Pequín Plus 5", que evaluará la implementación de la Plataforma de Acción de la cumbre mundial. En julio de 1999, treinta mujeres del Pacífico se reunieron con veinte mujeres *aborígenes* e *isleñas*, junto con otras hermanas de Australia y Aotearoa (Nueva Zelanda), para preparar una respuesta del Pacífico para la reunión de "Pequín Plus 5". Entre las áreas centrales de cambio están incluidas:

1. *Las mujeres y la economía*: encarando los efectos negativos de la globalización, la política de la Organización Mundial del Comercio (OCM) y el peso de la deuda sobre muchas mujeres de la región, que ha conducido a una creciente feminización de la pobreza, en particular de las mujeres indígenas y migrantes.
2. *Las continuas violaciones de los derechos humanos de las mujeres*: encarando la violencia contra las mujeres, la violación, el tráfico, la prostitución forzada, la marginación de grupos minoritarios y la negación de los derechos territoriales y reproductivos.
3. *Las mujeres en los conflictos armados*: encarando la creciente militarización y participación de las mujeres en conflictos en toda la región.
4. *Mecanismos institucionales para promover la igualdad para la mujeres*: encarando la necesidad de una mayor concentración en estrategias como dominación de género, reforma educacional y programas para asegurar el acceso y la equidad para las mujeres para permitir su participación en las instituciones dominantes.
5. *Participación política y toma de decisiones*: encarando la continua baja participación de las mujeres en los roles políticos y de toma de decisión. Esta participación es crucial para la habilitación de las mujeres y para su capacidad de lograr un estatus igual en todos los aspectos de la vida.

Las mujeres del Pacífico destacaron especialmente el tema de *las mujeres y el medio ambiente*, incluyendo: emisiones del efecto invernadero; recursos alimenticios genéticamente manipulados y modificados; derechos de propiedad intelectual; degradación de la tierra y el agua; neocolonialismo; y posesión corporativa de tierras tradicionales, resultante en la erosión de las conexiones espirituales con la tierra. El informe de la reunión de julio de 1999 subrayó:

> *"La persistencia del militarismo y de la industria nuclear ha perpetuado la degradación ambiental. Las mujeres del Pacífico insisten sobre:*
>
> - *Un fin a la minería de uranio en Australia.*
> - *Una prohibición total sobre el descarte de desechos nucleares y radioactivos en la región del Pacífico.*
> - *Programas de salud para las mujeres y los niños afectados por las pruebas nucleares".*

Las mujeres del Pacífico están sumamente afectadas por los legados radioactivos de cincuenta años de pruebas nucleares en el Pacífico por parte de las

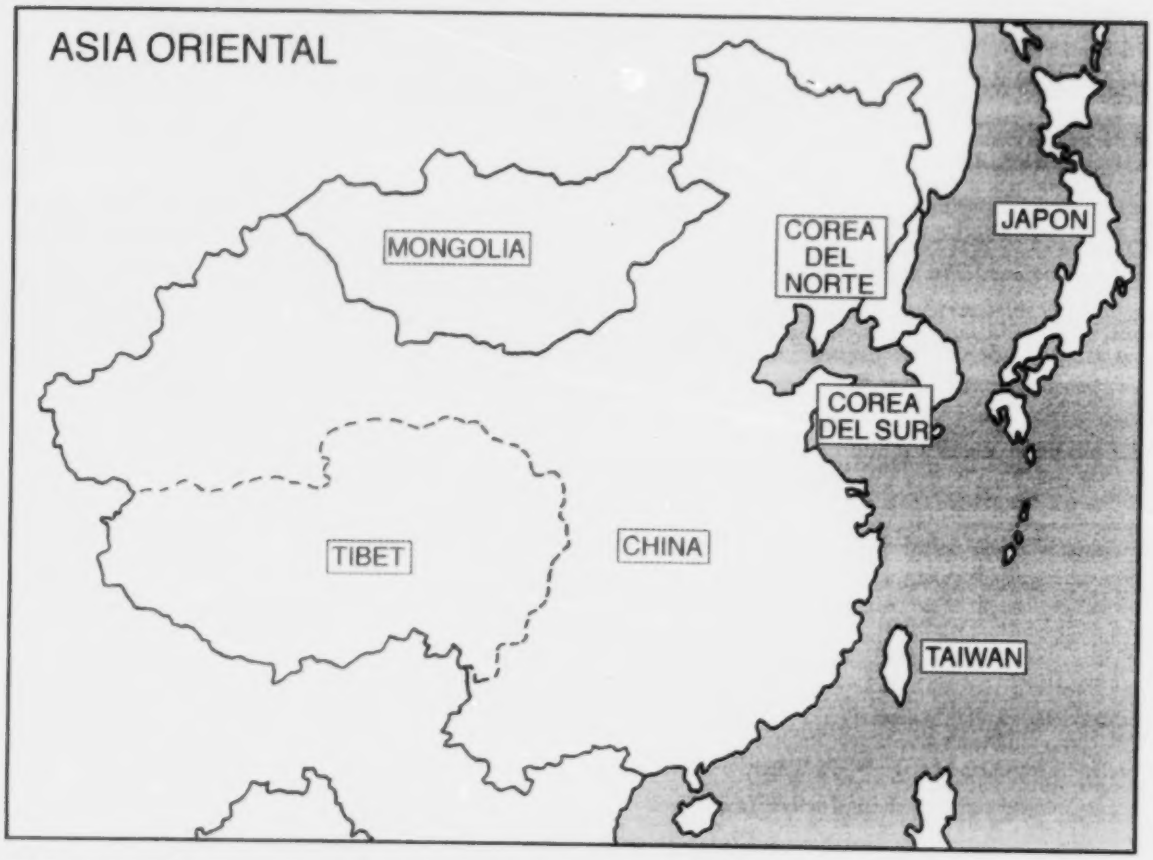
potencias nucleares (Francia realizó 46 pruebas atmosféricas en los atolones de Moruroa y Fangataufa entre 1966-1974, antes de trasladar sus pruebas al subsuelo. Los EE.UU. realizaron 67 pruebas atmosféricas en los atolones de Bikini y Enewatak en las Islas Marshall entre 1946-1958, mientras Gran Bretaña realizó 22 pruebas atmosféricas en Australia y la Isla Christmas). Los científicos están lentamente comenzando a analizar el impacto de las pruebas nucleares sobre la población indígena de las islas. Los estudios médicos están mostrando que las mujeres de las Islas Marshall y de la Polinesia Francesa enfrentan un índice mayor de problemas con la tiroides que los hombres.

En 1999, un equipo conjunto japonés, americano y británico publicó los resultados preliminares de los estudios médicos sobre cáncer de la tiroides en las Islas Marshall. El informe, publicado en el *Tohoku Journal of Medicine*, muestra que casi cuatro de diez mujeres vivas en el momento de la prueba Bravo en el atolón de Bikini han desarrollado tumores en la tiroides. En general, fueron estudiados 5.825 habitantes de las Islas Marshall entre 1993 y 1997 como parte de un estudio nacional: el 25,17 por ciento de las personas estudiadas tenían nódulos en la tiroides y el 1,17 por ciento eran cancerosos. El estudio japonés muestra que las mujeres tienen un índice mucho más elevado de problemas en la tiroides que los hombres: las mujeres vivas en 1954 tenían un 37,7 de nódulos en la tiroides, mientras que el índice para los hombres era del 21,2 por ciento.

Un estudio del instituto de investigaciones francés *Institut National de la Santé et de Recherche Médicale* (INSERM) encontró 155 casos informados de cáncer en la tiroides en la Polinesia Francesa entre 1985 y 1995: 120 en mujeres, 35 en hombres. El estudio informa que la cantidad de casos ha estado aumentando en el período 1985-1995 (seis casos informados de mujeres con cáncer en la tiroides en 1985-6; quince en 1989-990; y treinta y seis en 1993-4).

Este informe se basa en material publicado en el Pacific News Bulletin, el boletín mensual de Nuclear Free and Independent Pacific (NFIP) movement. Para suscribirse, tomar contacto con Stanley Simpson, Pacific Concerns Resource Centre (PCRC), Private Mail Bag, Suva, Fiji Email pcrc@is.com.fj Fax (679) 304755.

619



Países tratados en esta publicación: Japon y Taiwan

620 BEST COPY AVAILABLE

ASIA ORIENTAL

JAPÓN

Ainu: el debate interno sobre los términos "pueblos indígenas" y "poblaciones indígenas" en Japón

En la medida en que procede la discusión de la Declaración de la ONU sobre los Derechos de los Pueblos Indígenas, el debate sobre los términos "pueblos indígenas" y "poblaciones indígenas" ha surgido como el punto más importante en el cual el lado indígena y el lado estatal no pueden llegar a un consenso. Una serie de gobiernos han expresado que no tienen ninguna dificultad en aceptar el término "Pueblos Indígenas"; algunos gobiernos todavía siguen insistiendo que no les gusta por alguna razón. Es desafortunado que el Gobierno de Japón sea uno de estos últimos. Sin embargo, el pueblo *ainu* tiene la esperanza de que el Gobierno de Japón reconozca al pueblo ainu como un pueblo indígena en Japón y aprueba la Declaración tal como está. En realidad, han ocurrido cambios. El Gobierno de Japón ha cambiado su visión con respecto a las minorías étnicas, religiosas o lingüísticas. Por lo tanto, sería de ayuda para profundizar el análisis de la actitud del Gobierno de Japón examinar los cambios de terminología en los informes periódicos del Comité de Derechos Humanos, para supervisar la implementación de la Ley Internacional del Convenio de Derechos Humanos y Derechos Políticos.

El Artículo 27 de la Ley Internacional del Convenio de Derechos Humanos y Derechos Políticos dice lo siguiente:

> *"En aquellos Estados en que existen minorías étnicas, religiosas o lingüísticas, las personas pertenecientes a tales minorías no serán negadas el derecho, en comunidad con los otros miembros de su grupo, de gozar de su propia cultura, profesar y practicar su propia religión o usar su propia lengua".*

El primer informe presentado por el Gobierno del Japón es interesante porque no existe ninguna previsión relativa a los grupos étnicos en la Constitución o leyes japonesas.

El "Informe Inicial de las Partes Estatales correspondiente a 1980", declara en el Artículo 27:

621

"El derecho de cualquier persona a gozar de su propia cultura, profesar y practicar su propia religión o usar su propia lengua está asegurado por la ley japonesa. No obstante, las minorías del tipo mencionadas en el Convenio no existen en Japón".

En la frase final del informe inicial, el Gobierno de Japón negó la existencia de minorías étnicas, religiosas o lingüísticas en Japón. Esto sigue la lógica introducida por el mundo occidental según la cual todos los individuos deberían ser iguales ante la ley. Parece que el Gobierno de Japón insiste: "En lo que respecta a la garantía del derecho del individuo, no hay problema". Esta es la actitud básica del Gobierno de Japón.

En el segundo informe no encontramos cambios en la actitud del Gobierno de Japón, y hay sólo cambios menores e insignificantes de algunos términos (por ejemplo "su" cambiado por "de uno"). Pero los lectores encontrarán que el Gobierno del Japón en realidad mencionó al pueblo ainu por primera vez en este informe. Sin embargo, fueron muy cuidadosos de evitar el término "el pueblo ainu (Ainu minzoku)". Incluso hoy, todavía llaman a los ainu las "personas de ascendencia ainu (ainu no hitobito)". Por ejemplo en la Ley de Promoción de la Cultura Ainu promulgada en 1997, no se usa "el pueblo ainu" sino "las personas de ascendencia ainu". En este punto el Gobierno de Japón es muy coherente.

En el "Segundo Informe Periódico de las partes Estatales correspondiente a 1986", se escribe en el Articulo 27:

"En Japón, no se niega a ninguna persona el derecho de gozar la propia cultura de uno, practicar la propia religión de uno o usar la lengua propia de uno.

"En lo que respecta a la cuestión de las personas de ascendencia ainu planteada en relación con el Articulo 27, mientras que se reconoce que estas personas preservan su propia religión y lengua y mantienen su propia cultura, no se les niega el goce del derecho antes mencionados como ciudadanos japoneses que tienen garantizada la igualdad bajo la Constitución japonesa".

El Gran Cambio

En el tercer informe, ha habido un gran cambio en comparación con los informes anteriores. Por primera vez, los ainu son referidos como "el pueblo de ainu".

622

El "Tercer Informe Periódico de Japón" fechado el 16 de diciembre de 1991, establece:

> *"En Japón, no se niega a ninguna persona el derecho de gozar la propia cultura de uno, practicar la propia religión de uno o usar la lengua propia de uno.*
>
> *"En cuanto a la cuestión de las personas de Ainu planteada en relación al Artículo 27 del Convenio, pueden ser llamadas las minorías de ese Artículo, porque es reconocido que estas personas preservan su propia religión y lengua y mantienen su propia cultura. A las personas de ainu no se les niega los derechos antes mencionados como ciudadanos japoneses cuya igualdad es garantizada por la Constitución japonesa".*

Los lectores pueden estar sorprendidos de ver que el Gobierno de Japón reconoció la existencia de minorías mencionadas en el Convenio, a pesar de que no lo habían hecho cuatro años antes. ¿Cómo puede ser esto posible? Es posible sólo debido a la crítica inmediata de la comunidad internacional provocada por los comentarios discriminatorios hechos por el Primer Ministro Nakasone contra los afroamericanos e hispánicos en los EE.UU.

Las Medidas Hokkaido Utari en el Informe

Para mejorar la vida del pueblo ainu, el gobierno de Hokkaido ha estado tomando medidas comprehensivas para promover su educación, cultura, industria y para mejorar su entorno de vida, formulando las "Medidas de Bienestar Hokkaido Utari" tres veces desde 1974. ("Ainu" significa "ser humano" y "Utari" significa "compatriota" en lengua ainu).

En 1974, el Gobierno de Japón estableció la "Conferencia de Liaison (enlace) de los Ministerios y Agencias concernientes a las Medidas de Bienestar Utari" para cooperar en las medidas de bienestar Utari con el gobierno de Utari y para promoverlas fácilmente. El Gobierno está haciendo también esfuerzos para aumentar el presupuesto relacionado con las medidas de bienestar Utari bajo la estrecha cooperación entre los órganos administrativos pertinentes.

De acuerdo al "Relevamiento de las Condiciones de Vida Hokkaido Utari" realizado por el gobierno de Hokkaido en 1986, el nivel de vida de los ainu ha mejorado constantemente, pero la distancia entre el nivel de vida de las per-

sonas en general de Hokkaido y el de los ainu no ha disminuido como se esperaba.

Tenemos que prestar atención al hecho de que el gobierno mencionó la distancia en los niveles de vida entre los ainu y los ciudadanos en general, porque este hecho proyecta que los ainu han sufrido de racismo.

El "Cuarto Informe Periódico del Gobierno del Japón" fechado el 16 de junio de 1997 informa con referencia al Artículo 27 sobre políticas relacionadas con los ainu sobre las Medidas Hokkaido Utari:

> *"El nivel de vida de los ainu ha mejorado constantemente, pero la distancia entre el nivel de vida de los ainu y el del público en general de Hokkaido y el de los ainu no ha disminuido de acuerdo al "Relevamiento sobre las Condiciones de vida Hokkaido Utari" realizadas por el Gobierno de la Prefectura de Hokkaido en 1993. El Gobierno Prefectural de Hokkaido, por lo tanto, se esfuerza por mejorar el nivel de vida de los ainu y eliminar las diferencias entres los niveles de vida de los ainu y el resto de la población en general promoviendo las "Cuartas Medidas de Bienestar Hokkaido Utari (19952001" como una continuación de las "Terceras Medidas de Bienestar Hokkaido Utari", las cuales fueron definidas en el Tercer Informe Periódico.*
>
> *"El Gobierno de Japón, tal como fue descrito en el Tercer Informe Periódico, continúa ofreciendo su cooperación en las medidas antes mencionadas, que están siendo promovidas por el Gobierno Prefectural de Hokkaido, y está trabajando para completar los presupuestos relacionados para que estas medidas puedan entrar en efecto fácilmente".*

El informe continúa refiriéndose a la "Mesa Redonda sobre Política para los ainu":

> *"Siguiendo un requerimiento del Secretario en Jefe del Gabinete, "La Mesa Redonda sobre la Política para los ainu" comenzó considerando políticas para los ainu en marzo de 1995. Se presentó un informe al Secretario en Jefe del Gabinete en abril de 1996. Este informe concluye que es deseable para el Gobierno de Japón tomar medidas apropiadas, incluyendo legislación, para preservar y promover el lenguaje y la tradición ainu y abolir la antigua "Ley de Dispensación de Reservación para los Nativos de Hokkaido" y otras leyes.*

El informe está basado en las características y circunstancias de los ainu, que han vivido en Hokkaido. El territorio inherente de Japón, desde el fin de la Edad Media, incluso antes de la llegada del pueblo wajin. El Gobierno de Japón luego expresó su compromiso para tomar medidas apropiadas, respetando este informe y estudiando los detalles de su contenido.

("Ainu" significa "seres humanos" en la lengua ainu; "Utari" significa "compatriota" en la lengua ainu; "Wajin" significa todos los otros japoneses, excepto los mismos ainu").

Es sorprendente encontrar que el término "el pueblo ainu" es usado en esta traducción del inglés del cuarto informe, porque los políticos y burócratas del Gobierno del Japón siempre han sido tan cuidadosos de evitar el término "el pueblo ainu" en cualquier documento, incluyendo la mencionada Ley de Promoción de la Cultura Ainu. Fue casi increíble que este fuera el informe oficial presentado a la ONU por el Gobierno de Japón. Y ciertamente, en la versión japonesa el término "Ainu no hitobito" ("gente de ascendencia ainu") es todavía mantenido. Los representantes ainu concluyeron que era importante que fuera hecha conocer esta actitud engañosa del Gobierno del Japón.

También es importante prestar atención al hecho de que el informe fue fechado el 16 de junio de 1997. Esto se debe a que el 27 de marzo de 1997 la Corte del Distrito de Sapporo estableció en la decisión sobre la Represa Nibutani que los ainu eran un pueblo indígena del Japón. Esta fue el primer reconocimiento oficial de los ainu como pueblo indígena. Por lo tanto, no sólo la decisión, en la cual la Corte había sentenciado que era ilegal apropiarse de la tierra de los demandantes del pueblo ainu sin respeto a la tradición y cultura ainu incluso para medidas públicas, sino también el reconocimiento de los ainu como un pueblo indígena del Japón había circulado por todo el mundo, especialmente entre los otros pueblos indígenas como un gran progreso y victoria del movimiento indígena del Japón. Parece que el Gobierno del Japón abandonó el término "personas de ascendencia ainu" debido a la presión de la comunidad internacional.

En la nota al pie del informe se da una explicación de algunos términos utilizados. Uno de ellos es "wajin" el cual, de acuerdo al informe, "significa todos los otros japoneses, excepto los mismos ainu". Esta definición de "wajin" no es correcta. "Wajin" se refiere a la mayoría de los ciudadanos japoneses. Y tenemos que destacar que la definición dada en el informe no refleja el hecho histórico de que el Gobierno de Japón integró Ryukyu (Okinawa), que era un

reino independiente dentro del territorio japonés en 1872. Los autores está seguros de que los hermanos y hermanas de Ryukyu nunca aceptarán esa definición.

La Ley de Promoción de la Cultura Ainu y el debate

El Gobierno del Japón ha expresado su opinión de que no aceptaría el término "pueblos indígenas" sin una definición clara. Pero no debería olvidar que el objeto de la Ley de Promoción de la Cultura Ainu debería ser "construir una sociedad en que el orgullo étnico de la gente de Ainu debería ser respetado". Esta es la primera aparición del término "étnico" en la legislación japonesa. Aunque todavía no se ha anunciado todavía una clara definición del concepto del término "étnico, en realidad ha aparecido al fin. El uso del término en la legislación puede ser interpretado como que el Gobierno tiene un concepto del término que puede ser promisorio. Y será la llave para comenzar un debate interno sobre los términos "pueblos indígenas" y "poblaciones indígenas" ya que el Gobierno del Japón ya ha reconocido la existencia de una minoría que mantiene una cultura, religión y lengua inherentes en el tercer informe al Comité de Derechos Humanos.

Como resultado de la Ley de Promoción de la Cultura Ainu en 1997, las actividades para preservar la lengua ainu, las danzas y canciones tradicionales ainu, las habilidades de tallado, etc., han sido revitalizadas. Esto no se debe solamente al apoyo financiero dela fundación establecida de acuerdo a la ley sino también debido al positivo efecto psicológico del reemplazo de la antigua Ley de Protección de Aborígenes que tuvo la nueva ley.

Sin embargo, debe ser resaltado que la solicitud de apoyo financiero por la fundación puede ser presentada no sólo por miembros del pueblo ainu, sino por todos los ciudadanos que estén interesados en la cultura ainu. El establecimiento del fondo para la autosuficiencia, que ha sido una de las principales demandas del pueblo ainu, no fue incluido en la ley a pesar del establecimiento de una fundación para "todos" por la cual se provee apoyo financiero para la actividades culturales y académicas. Y el procedimiento en sí mismo puede ser bastante cansador. Por lo tanto, se ha dudado si los programas basados en el nuevo sistema podrían ser de mucha utilidad para los ainu. Y el fondo básico fue provisto por el Gobierno de la Prefectura y 62 ciudades, pueblos y aldeas de Hokkaido. Esto implica que toda las administraciones locales fuera de Hokkaido no tienen responsabilidad con respecto a los temas que afectan al pueblo ainu y la actividades de la fundación no pueden ser, por lo tanto, nacionales.

No tiene por qué ponerse énfasis en que la igualdad ante la ley debe ser garantizada. Sin embargo, a pesar de la igualdad de oportunidades, mientras que el pueblo sufra de racismo y malos niveles de vida, hay que hacer esfuerzos para garantizar la igualdad. Tales temas son en última instancia el resultado de la política del Gobierno de Japón de no reconocer la existencia de pueblos indígenas en el Japón.

Se han planificado reuniones con el Buró de Desarrollo de Hokkaido y el Ministerio de Relaciones Exteriores responsable por la Ley de Promoción de la Cultura Ainu, la cual, en adición a los informes periódicos de las Naciones Unidas, es de esperar que ayuden a clarificar qué tipo de concepto legislativo subyace en los términos de "étnico" y "pueblo ainu", y si los cambios en los informes afectarán la posición tomada por el Gobierno del Japón con respecto a los términos de "pueblos indígenas" y "poblaciones indígenas".

TAIWAN

El mayor desastre para los pueblos indígenas en Taiwan en 1999 fue el terremoto. En las primeras horas de la mañana del 21 de setiembre de 1999, un fuerte terremoto (7,3 de la Escala Richter) sacudió a Taiwan, y puso en peligro a muchos pueblos indígenas que viven en las tierras altas centrales, la columna vertebral de Taiwan. Afortunadamente, el terremoto en sí no costó muchas vidas en los pueblos indígenas. Sin embargo, el terremoto reveló problemas de larga data, tales como destrucción del medio ambiente, negligencia de los gobiernos locales en las áreas de pueblos indígenas, y la falta de organizaciones de base, que están minando la vida de los pueblos indígenas.

Prejuicios y Discriminación

Los pueblos indígenas de Taiwan han experimentado por largo tiempo prejuicios y discriminación, que tristemente se manifestaron durante el terremoto. Por ejemplo, en las primeras etapas del desastre del terremoto, la mayor parte de las víctimas de los edificios colapsados estaban buscando desesperadamente cobijo y comida. Se proporcionó una cantidad de ayuda y servicios y las escuelas y otras instituciones ofrecieron cobijo a las víctimas. En diversos lugares donde tanto los pueblos indígenas como no-indígenas estaban mezclados, los indígenas informaron que se les había impedido el acceso a la comida y que se les dijo que "volvieran a sus aldeas para conseguir comida".

Destrucción del Medio Ambiente

Según las estadísticas oficiales en 1998, los pueblos indígenas de Taiwan estaban compuestos por más de 110.000 hogares con una población de 410.000, la mayor parte de los cuales vive en las tierras altas. Sin embargo, como resultado de proyectos de desarrollo a largo plazo, la mayor parte de las montañas, la patria de los pueblos indígenas, ha sido destruida. Los deslizamientos de tierra han sido la peor de las pesadillas para los pueblos indígenas que viven en las montañas. Durante las temporadas lluviosas y de los tifones, los pueblos indígenas sufren deslizamientos de barro y, la mayoría de las veces, los caminos están bloqueados por rocas que caen. El terremoto solamente empeoró los ya muy serios problemas. Más aún, varias aldeas indígenas están rodeadas de represas. Los aldeanos, especialmente aquellos que viven aguas abajo, están preocupados de que las represas puedan colapsar. Aún si las represas fueran seguras, sus tierras a lo largo de las riberas, han sido lavadas debido a las inundaciones por apertura de compuertas.

Desempleo

Una encuesta oficial nacional entre los pueblos indígenas muestra que en el 7,39% de los hogares indígenas, el jefe del hogar está desempleado. Las principales razones de este desempleo son las siguientes: ancianos (39,01%), retirados (28,75%), incapacitados y enfermos (18,84%) y que no pudieron encontrar trabajo (4,84%). Si aún más, se clasifican por las áreas, las principales razones del desempleo de los jefes de hogar que viven en las tierras altas es el ser ancianos y retirados (70,70%), en tanto que para los que viven en las tierras bajas, es la imposibilidad de conseguir trabajos (17,86%) y son afectados por la importación de trabajadores migrantes (8,27%).

Para aumentar las ganancias de los negocios privados, los gobiernos tienen una política de importar trabajadores migrantes del Sudeste asiático. A estos trabajadores migrantes se les pagan salarios mínimos y su trabajo es a menudo peligroso, difícil y denigrante. Los trabajos que los trabajadores migrantes toman son los que usualmente ocupaban los pueblos indígenas, tales como trabajos de construcción. Por lo tanto, el sentimiento común entre los pueblos indígenas, especialmente aquellos que viven en las ciudades, es opuesto a los trabajadores migrantes, porque consideran que les quitan sus trabajos. Para la reconstrucción luego del terremoto, se propusieron muchos proyectos de construcción. Sin embargo, no hay garantía de que los pueblos indígenas serán empleados para tales proyectos de reconstrucción. La mayor parte de las compañías prefieren importar trabajadores migrantes para reducir sus gastos.

De acuerdo con las mismas estadísticas oficiales, la mayor parte de los indígenas jóvenes viven en ciudades para obtener mejor educación y oportunidades de empleo. Sin embargo, las cifras arriba mencionadas prueban que sus sueños de encontrar una mejor forma de vida en las ciudades están hechos añicos. Durante el terremoto, muchos apartamentos en las ciudades colapsaron, dejando muchos PUEBLOS INDIGENAS urbanos sin hogar. Ya que muchos de ellos están desempleados o subempleados, apenas pueden permitirse el comprar o alquilar un nuevo apartamento. En consecuencia, muchos han vuelto a las aldeas.

Sin embargo, la situación en las aldeas no es mucho mejor. Las fuentes primarias de ingreso de los PUEBLOS INDIGENAS en las aldeas son los cultivos comerciales, tales como frutas, vegetales y té, y algunos pequeños trabajos en las granjas, o trabajos de limpieza en las ciudades cercanas. Los daños en los caminos y sistemas de irrigación a causa del terremoto, han causado grandes pérdidas. Los que dependen de los pequeños trabajos en las granjas, inmediatamente perdieron su primera fuente de ingresos. Más aún, muchos pequeños trabajos provenían de los hoteles y restaurantes de los lugares turísticos cercanos. El terremoto ha disminuido significativamente el número de turistas que vienen a esas áreas, lo que lleva al desempleo entre los pueblos indígenas, especialmente las mujeres, que solían trabajar como personal de limieza en los hoteles y restaurantes.

Las Cuestiones de la Tierra y el Desarrollo de las Aldeas

Los problemas previamente mencionados están, sin duda, relacionados con la cuestión de la tierra, que es muy crítica para los pueblos indígenas de Taiwan. La cuestión de la tierra se manifiesta en la nacionalización, privatización y mercantilización de la tierra ancestral, y en consecuencia, el debilitamiento de las aldeas indígenas.

Desde que el gobierno del Kuomintang (KMT) tomó Taiwan en 1949, ha continuado con la política de tierras implementada por los japoneses en 1948, que designaba las tierras ancestrales como "reservadas" por un pedazo de papel llamado "Reglamentaciones de Manejo de las Tierras Altas Reservadas en Condados de la Provincia de Taiwan". Esencialmente, el estado "reserva" las tierras para el uso de los pueblos indígenas, con la premisa que el estado posee las tierras y por lo tanto los derechos a confiscar las tierras de los pueblos indígenas en bien de los "intereses públicos". Y sin duda el estado lo hizo. Ha dictado la creación de los Parques Nacionales de Yu-Shan, Tairugu, Shueiba y Kenting, proyectos de deforestación por parte de la Oficina Forestal, y la construcción de represas a lo largo de los ríos Taan y Chrousui, para

nombrar unos pocos, donde las actividades de los pueblos indígenas están restringidas por leyes y reglamentaciones estrictas. Las vidas y sustento de los pueblos indígenas son, por tanto, seriamente afectados.

Como resultado de la política desarrollista de Taiwan, casi todas las áreas remotas han sido arrastradas en un rápido desarrollo económico. Sin embargo, ya que los pueblos indígenas son económica y políticamente carenciados, una vez que se integran a la economía del mercado, donde el uso comunal y sustentable de las tierras fue transformado por cultivos comerciales para obtener ganancias, sus economías domésticas se han marginado, se han hecho dependientes, y están siendo explotados por los capitalistas.

En consecuencia, aún la tierra reservada es propiedad de no-indígenas, porque muchos han debido vender sus tierras a causa de la mera pobreza. Y todavía otros son engañados, seducidos o forzados a hacerlo. Estadísticas que no han sido admitidas oficialmente, pero que son ampliamente aceptadas, pueden ilustrar el hecho arriba mencionado: las tierras Reservadas de los pueblos indígenas bajo el gobierno japonés ascendían a 170.000 hectáreas. Actualmente, en tanto que la tierra de propiedad de los indígenas se dice que es de 240.000 hectáreas, el área realmente utilizada por los indígenas, esto es, que no ha terminado en las manos de los no-indígenas, es solamente 80.000 hectáreas.

Las culturas, instituciones sociales y relaciones de los pueblos indígenas están profundamente enraizadas en la tierra, lo cual los distingue de la mayoría de la sociedad. Sin embargo, bajo el estado desarrollista taiwanés, la política hacia los pueblos indígenas es la de la "modernización". Debido al arriba mencionado desarrollo dependiente, los pueblos indígenas de Taiwan han sido crecientemente asimilados a la sociedad dominante, llamada "moderna". Como resultado de los rápidos cambios económicos entre las comunidades indígenas, los sistemas sociales indígenas han sido profundamente alterados, a menudo desintegrados, y muchos perdieron sus culturas distintivas. Con los proyectos de desarrollo intrusivos dictados por el estado, se explotan los recursos naturales y los pueblos indígenas ya no pueden mantener su sustento en las aldeas. Esto dio como resultado la salida de los jóvenes en busca de mejor educación y empleo. Aquellos que se quedan en las aldeas apenas pueden continuar las tradiciones de sus ancestros debido a apuros económicos y a la desintegración de la comunidad, lo que ha llevado al muy difundido alcoholismo.

Dificultades para la Reconstrucción

Desde el terremoto, los pueblos indígenas han sido inundados por promesas de reconstrucción, pero muy poco es lo que ha sido implementado. Los pueblos indígenas están muy confundidos y no tienen un adecuado acceso a la información, especialmente con respecto a las políticas que les atañen. Más aún, muchos de los planes de reconstrucción se hacen sin suficiente comprensión de la realidad que enfrentan los pueblos indígenas. Por lo tanto, la mayor parte de los planes son fútiles. Por ejemplo, muchos pueblos indígenas están registrados en las aldeas pero viven en las ciudades, esperando encontrar mejores oportunidades de trabajo y educación. El gobierno decidió darles compensaciones a las víctimas de los apartamentos colapsados. Ya que es muy difícil para aquellos sin registro domiciliario en las ciudades el probar su actual residencia urbana, muchos de ellos no pudieron recibir la compensación otorgada por el gobierno.

Si bien fueron lo suficientemente afortunados como para recibir la compensación, no es suficiente para que reconstruyan sus casas en las aldeas o compren un nuevo apartamento en la ciudad. Debido a la falta de propiedades, es muy difícil para los indígenas el obtener préstamos de los bancos. La mayor parte de los bancos no consideran que las tierras reservadas de los pueblos indígenas sean aceptables para ser hipotecadas. Aún si se les otorgan los préstamos, es difícil que ellos puedan devolverlos debido al desempleo y subempleo.

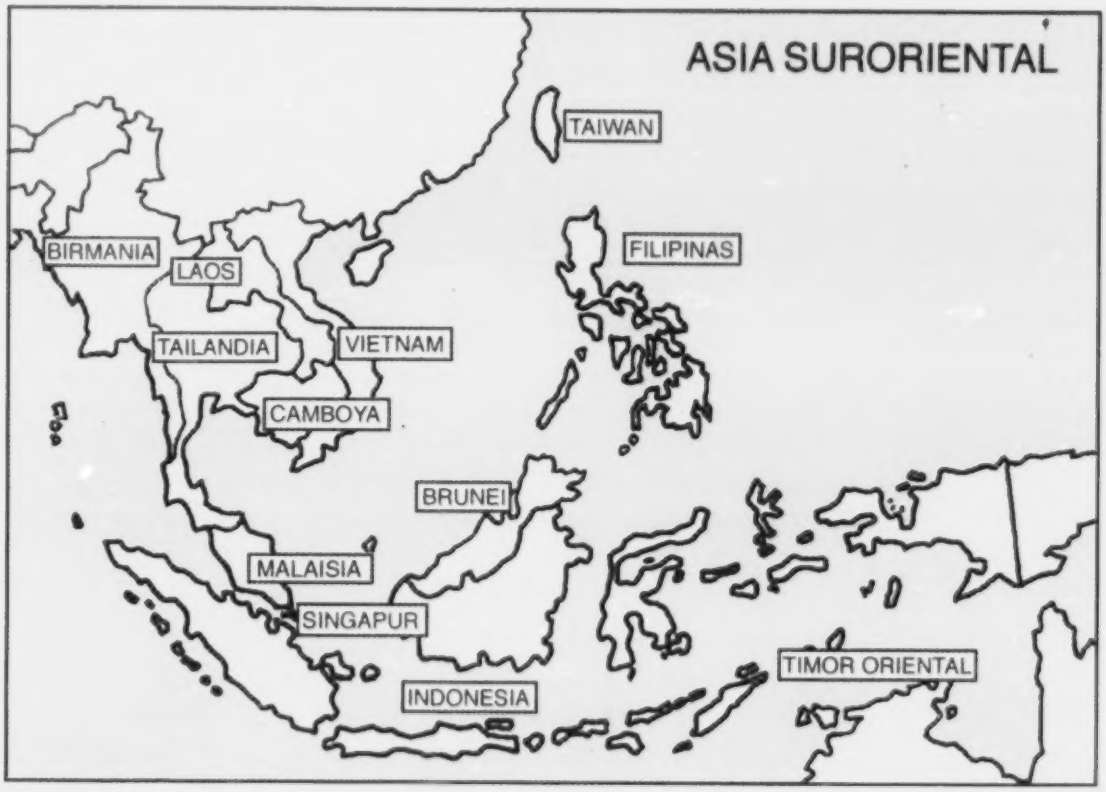
Falta de Organización de Base

Generalmente, los gobiernos han probado su incapacidad de reconstruir la forma de obtener el sustento de los pueblos indígenas. El gobierno central ha estado más ocupado con los asuntos relativos a los no-indígenas, aunque no ha logrado mucho más. El Comité de Asuntos de los Pueblos Indígenas (CIPA) bajo el Ejecutivo Yan es supuestamente la más alta agencia gubernamental para asuntos de los pueblos indígenas. Sin embargo, desde que está bajo el directo control del gobierno central, tiende a estar más del lado del gobierno que de los intereses de los pueblos indígenas cuando éstos están en conflicto con el gobierno. Desde el 20 de mayo de 2000, Taiwan tiene un nuevo gobierno. Pero es difícil decir si el CIPA querrá ahora defender los derechos de los pueblos indígenas. Es importante, por lo tanto, mantener la atención sobre el desarrollo del nuevo gobierno.

Las agencias gubernamentales locales son con las que los pueblos indígenas tratan más directamente. Sin embargo, la mayor parte de ellas tienen la reputación de no preocuparse y la mayor parte de los indígenas se sienten

frustrados y sin esperanzas cuando tratan con ellos. El terremoto sin duda revela que las bases han sido socavadas por largo tiempo. Con el mal funcionamiento de los gobiernos centrales y locales, es especialmente crucial que los pueblos indígenas estén organizados a nivel de base para poder realizar el trabajo a largo plazo de la reconstrucción. Aunque el movimiento de los pueblos indígenas en el pasado había contribuido a mejorar la condición de los pueblos indígenas en Taiwan, se ha señalado que en las bases los pueblos indígenas no han estado bien organizados. En la mayor parte de las áreas, la reconstrucción todavía no ha comenzado. La mayor parte de los pueblos indígenas está ahora gradualmente comenzando a darse cuenta de que ya no pueden confiar en el gobierno. Pero muchos de ellos no saben cómo organizarse. Hay solamente unos pocos casos en que los pueblos indígenas han comenzado a organizarse al nivel de base. Es de esperar que esos casos alentarán en el futuro a los movimientos indígenas en Taiwan.

632



Países/regiones tratados en esta publicación: Filipinas, Timor Oriental, Indonesia, Malaisia, Tailandia, Cambodia, Birmania y Nagalim

633

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ASIA SURORIENTAL

FILIPINAS

Principales acontecimientos nacionales

El 10 de febrero del 2000, el Presidente Joseph Estrada emitió una Orden Administrativa 108 (AO 108) creando un Equipo Presidencial de Tareas sobre Pueblos Indígenas (PTFIP). Este nuevo organismo está compuesto de siete individuos nombrados por el presidente. Tiene la tarea de asegurar la completa implementación de la Ley de Derechos de los Pueblos Indígenas (IPRA). Una de las razones para la creación de este organismo es el caso pendiente que cuestiona la constitucionalidad de la IPRA que todavía está por resolverse por la Corte Suprema. El caso, alega Estrada, ha conducido a la demora en el suministro de servicios básicos, especialmente aquellos concernientes a los derechos de los pueblos indígenas.

AO 108 instruye a los miembros del PTFIP a reunirse y presentar un informe mensual al Presidente a través de la Oficina del Asistente Presidencial para la Erradicación de la Pobreza (OPAPE) y a organizaciones no-gubernamentales y organizaciones de pueblos. La orden administrativa también dirige al NCIP suministrar los necesarios servicios secretariales así como asistencia técnica que el PTIFP pueda requerir. El PTIFP dejará de existir tan pronto como la Suprema Corte entregue su resolución sobre la constitucionalidad de la IPRA o según orden previa del presidente.

David Dao-as, el Presidente de la Comisión Nacional sobre Pueblos Indígenas (NCIP) dijo que la creación del PTFIP es realmente una duplicación de las funciones de la NCIP. Según Dao-as, "lo que es muy revelador es que no existe ninguna voluntad política para implementar la IPRA de parte de la Dirección del Palacio".

La implementación de la IPRA por la NCIP ha sido trabada primero por las disputas en su dirección y segundo, por la no liberación de fondos para la implementación de su programa.

La creación del PTFIP por Erap fue como una gran sorpresa para todas las organizaciones de pueblos indígenas. No hubo un proceso transparente en la formación de este organismo. De la misma manera, también está creando confusión sobre las funciones del PTFIP con respecto a las de la NCIP:

Mientras tanto, la violación de los derechos de los pueblos indígenas continúa con la desposesión de los pueblos indígenas de sus tierras y recursos

que son ofrecidos a las compañías multinacionales y grupos empresariales. Las organizaciones indígenas como la Alianza de los Pueblos de la Cordillera (CPA) son de la opinión de que a menos que la administración de Estrada cambie su directiva política sobre la liberalización económica, a menos que esta administración rechace las leyes existentes que violan o no reconocen los derechos de los pueblos indígenas, ni el PTFIP ni la NCIP podrán suministrar soluciones substanciales a las dificultades de los pueblos indígenas de las Filipinas.

La Red Asiática de Mujeres Indígenas

1999 fue un año de muchos desafíos para la Red Asiática de Mujeres Indígenas (AIWN). La tarea que asumieron de revitalizar la red ha sido cumplida hasta un cierto punto. Aunque no han habido organizaciones adicionales que se hayan afiliado, la Red se concentró en sus esfuerzos para vincularse con otras redes de mujeres indígenas de otras regiones. Este punto central ha sido dictado por el hecho de que el año 1999 ha sido el último año para prepararse para Pequín+5 que tendrá lugar del 5 al 9 de junio del 2000 en Nueva York. La experiencia de las mujeres indígenas que asistieron a la primera Comisión Preparatoria (Prep Com 1) para la Revisión de Pequín+5 en marzo de 1999 mostró la necesidad de lograr una unidad más firme entre las mismas mujeres indígenas en posiciones relativas a los intereses cubiertos por la Revisión y aquellos que no eran cubiertos. Esto implica el reconocimiento de los derechos colectivos como parte del régimen de los derechos humanos consagrados en los convenios de la ONU y, específicamente, el derecho de los pueblos indígenas a la autodeterminación. Esto surge de los muchos problemas que enfrentan hoy los pueblos indígenas debidos al no reconocimiento por parte de los estados nacionales de su derecho a su territorio ancestral y autodeterminación.

La construcción de uniones más firmes entre las mujeres indígenas implica más foros atractivos para ellas en todos los niveles: local, nacional, regional e internacional. A partir de la Prep Com 1 de marzo de 1999, el Grupo de Mujeres Indígenas decidió mantenerse en contacto y planificar más de estos encuentros a través del espacio cibernético, correo normal, cara a cara o telefax. Se realizaron más planes concretos en Lima, Perú, en diciembre de 1999 cuando CHIRAPAQ fue anfitriona del Seminario Internacional de Mujeres Indígenas que Enfrentan el Nuevo Milenio (ver el capítulo sobre Chile en este documento). Se formó un Comité Directivo para la Revisión Pequín+5. Está compuesto de representantes de las redes de las diferentes regiones geográficas. Hizo planes para obtener fondos para permitir que algunas representantes

asistieran a Pequín+5, para intercambiar información, compilar un directorio de las organizaciones de mujeres indígenas de todo el mundo (un proyecto en marcha), para contribuir a los procesos nacionales y regionales y para planificar más allá de Pequín+5. Para lograr esto, Lea Nicholas-Mackenzie, de la Asamblea de Primeras Naciones de Canadá, fue nombrada por las participantes para realizar el trabajo de coordinación. Este primer esfuerzo de coordinación está mostrando sus frutos con el planeado Foro de Mujeres Indígenas en Nueva York como continuación de los esfuerzos comenzados en Lima. Varias representantes indígenas de las diferentes regiones geográficas se reunirán con este objetivo. Las mujeres indígenas están tomando la oportunidad de ser capaces de interactuar más, construir unidad y planificar futuras acciones. La Revisión de Pequín+5 no constituirá solamente el centro de la presencia de las mujeres indígenas en Nueva York. Ellas quieren principalmente proyectar a los organismos gubernamentales e intergubernamentales, así como a las organizaciones no-gubernamentales y organizaciones de mujeres, que las mujeres indígenas tienen mucho para decir y hacer.

El continuo desafío para AIWN es cómo presentar una imagen substantiva de la situación de las mujeres indígenas asiáticas para que el pueblo sea capaz de apreciar los temas planteados. Hay mucho para hacer para sensibilizar a los grupos activistas y ONGs para que se ocupen de la causa de los pueblos indígenas en general y de las mujeres indígenas en particular. Es reconfortante que también tengamos defensores en algunas de las formaciones y grupos de activistas de mujeres en Asia. Esto implica la documentación necesaria de la situación a nivel aldeano. Se ha realizado un intento de usar los escasos datos disponibles para hacer un informe alternativo para la Conferencia de ONGs en Relaciones Consultivas con las Naciones Unidas (CONGO). La necesidad real en este momento es la investigación y la documentación. Desgraciadamente para nosotras, la barrera de la lengua está causando algunas limitaciones en nuestra capacidad para intercambiar información. Aquí es donde necesitamos hacer trabajo de contacto para la traducción y la recolección de datos. Hay mucha información en manos locales pero no está procesada o proyectada para ayudar a un análisis regional debido a la falta de traducción. También existe el reconocimiento de que alguna información está en manos de académicos y organizaciones profesionales en los países del Norte. Esto es aparte de lo que disponen las instituciones gubernamentales, intergubernamentales y financieras. Ojalá que este artículo llegue a aquellos que están dispuestos a compartir o devolver esta información a la región. Por más información sobre AIWN, nuestras direcciones son las siguientes: P.O.

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La Región de la Cordillera

Abolición pendiente de los Organismos Regionales de la Cordillera

La Asamblea Regional de la Cordillera (CRA), la Junta Ejecutiva de la Cordillera (CEB) y la Administración Bodong de la Cordillera (CBA), organismos regionales creados a través de la Orden Ejecutiva 220 están enfrentando ahora la posible abolición debido a la no adjudicación de fondos por el Congreso a estos órganos en el presupuestos nacional propuesto para ser aprobado en marzo del 2000. En la propuesta presentada, sólo la CEB recibiría presupuesto para proseguir. Esta acción drástica del Congreso resultó de la evaluación y la percepción pública de estos organismos como no funcionales, con cargos de corrupción y riñas internas. Estos organismos gubernamentales fueron también acusados por el sonoro rechazo de todas las Leyes Orgánicas para la creación de la Región Autónoma de la Cordillera en tres diferentes referéndum celebrados en los pasados años. Los funcionarios de estos organismos tienen que presentar su versión de los hechos en la Suprema Corte.

Estos organismos regionales fueron creados en 1987 por la entonces presidenta Cory Aquino para facilitar el establecimiento de la Región Autónoma de la Cordillera. En su formación, la Alianza de los Pueblos de la Cordillera hizo campañas por su abolición en base a su no representatividad política. La Alianza de los Pueblos de la Cordillera (CPA) también consideró a aquellos nombrados para estas estructuras políticas como líderes que actuaban en beneficio propio.

Matanzas políticas

El 4 de junio de 1999, Rey Pedronio, un miembro de la Oficina de Relaciones Públicas y Medios de Difusión Baguio de la Asamblea Regional de la Cordillera (CRA) fue muerto a tiros frente a su esposa. Los informes alegaron que fue una acción calculada del Ejército de Liberación de los Pueblos de la Cordillera (CPLA) dirigida a silenciarlo. Pedronio estaba, en ese momento, interviniendo en una disputa de tierras que involucraba a elementos del CPLA. El arresto de un líder del CPLA confirmó la percepción pública de su involucramiento en este asesinato a sangre fría.

El 31 de diciembre, al comienzo del nuevo milenio, Fr. Conrado Balweg, el infame líder y fundador del Ejército Popular de Liberación de la Cordillera (CPLA) fue muerto por miembros del Nuevo Ejército del Pueblo (NPA) en su

pueblo natal de Bangilo, Malibcong Abra. De acuerdo a los comunicados de prensa del NPA, Conrado Balweg merecía la pena capital a causa de una serie de crímenes que había cometido como jefe del CPLA: la lista de crímenes que alegaron que Conrado Balweg ha cometido incluyen el secuestro y posterior asesinato de Ama Daniel Ngayaan, un respetado líder *kalinga* y de Romy Gardo, un organizador del CPA en Abra.

Fr. Conrado Balweg fue un ex portavoz del Nuevo Ejército Popular pero se separó de ellos y formó el CPLA. Luego entró en un pacto de paz con la Presidenta Cory Aquino en 1987.

La esposa y los hijos de Conrado Balweg y unos cuantos funcionarios gubernamentales condenaron inmediatamente este incidente. El ejército presentó un caso frente a la justicia nombrando nueve miembros del NPA como los perpetradores del crimen. Mientras tanto, las familias de las víctimas de Conrado Balweg dijeron que creían que este acto revolucionario había traído la largamente esperada justicia para sus parientes muertos. Este sentimiento fue abiertamente declarado por la hija de Daniel Ngayaan cuando fue entrevistada por miembros de los medios de difusión.

Minería

El pasado 26 de julio de 1999 en lo peor de las pesadas lluvias, 14 hectáreas de Barangay Colalo, en el pueblo rico en oro de Mankayan, provincia de Benguet, sufrieron un colapso. Toda la Escuela Elemental de Colalo junto con cuatro casas residenciales, árboles de mango y unas cuantas granjas "swidden" fueron tragadas por la tierra. Un residente, llamado Pablo Gómez, quien se prestó como voluntario para asistir a los maestros a evacuar sus cosas del edificio de la escuela, desapareció también. Su cuerpo nunca fue encontrado.

Los residentes de Colalo atribuyeron este desastre a la construcción de la represa con desechos de la mina de la Lepanto Consolidated Mining Company (LCMCo), ubicada apenas debajo del área que sufrió el colapso. Los ancianos alegaron que la represa de deshechos que fue construida en 1990 ha estado bloqueando desde entonces el flujo de un arroyo cercano y esto causó la acumulación de agua en el subsuelo. A través del tiempo, el agua acumulada ablandó la tierra, explicaron los ancianos, diciendo que este proceso había debilitado el subsuelo hasta que sufrió un colapso. También creían que la construcción de un camino al pie del área que sufrió el colapso y las continuas actividades de transporte dentro del área causaron el debilitamiento de la base de soporte de la montaña.

Este análisis fue validado por geólogos del Instituto Nacional de Geología de la Universidad de las Filipinas. Este grupo de expertos realizó una investigación independiente a pedido del Congresal Cosalan que presentó una Resolución de Cámara Nº 1057 ordenando una investigación del desastre.

LCMCo declaró que el incidente fue "un hecho de Dios" diciendo que su ocurrencia fue puramente un desastre natural. La demanda del pueblo *kankanaey* de Colalo por una justa compensación ha sido consecuentemente negada por el gigante minero.

En un incidente separado, tres líderes del Barangay Bulalacao, también en Mankayan, fueron acusados por casos criminales y civiles por oponerse al Proyecto Victoria Gold de la compañía minera. Los cargos de obstrucción a las operaciones de LCMCo fueron presentados por los abogados de la compañía después de que los residentes hicieron barricadas en el último sitio de exploración para impedir la entrada de los equipos de perforación en su comunidad el pasado mes de octubre de 1999.

Los agricultores kankanaey que se oponen al proyecto creen que la exploración y actividades de perforación de LCMCo drenarán sus fuentes de agua. El sitio de perforación está ubicado al costado de un arroyo que suministra irrigación a sus granjas de vegetales. La gente alega que pasadas actividades de perforación en su comunidad desde los años 70 han drenado su suministro de agua. Más de cien hoyos han sido ya creados por LCMCo en el barangay desde los años 70.

Mientras tanto, registros del Buró de Manejo del Medio Ambiente del Departamento de Medio Ambiente y Recursos Naturales muestran que la compañía no ha cumplido con la realización de un Certificado de Cumplimiento Ambiental para su Proyecto Victoria Gold en Bulalacao.

Los tres líderes *bulalacao* han presentado fianza y han prometido continuar oponiéndose a la perforación y a las actividades mineras de LCMCo, junto con cientos de residentes de Bulalacao. La perforación ha sido temporariamente detenida mientras que está pendiente la resolución de la corte.

Esta es la segunda vez que Lepanto respondió a los residentes protestantes con un caso judicial. El primer caso por la obstrucción de las operaciones de la compañía fue presentado contra ocho residentes el pasado mes de noviembre de 1998.

El resultado de estos casos tienen implicaciones de largo alcance sobre las actividades de protesta en marcha contra la minería, no sólo en la Cordillera, sino en todo el país. En ambos casos, LCMCo invocó previsiones de la Ley de Minería de 1995 alegando que la ley había sido violada por los residentes protestantes. Esta ley prevé la operación no disturbada de las aplicaciones

639

mineras aprobadas. Con la continua implementación de esta ley, más acciones de protesta del pueblo serán ciertamente enfrentadas con casos judiciales. Esto pondrá al pueblo en una posición legal defensiva en la afirmación de sus derechos prioritarios y colectivos sobre sus tierras y recursos.

Hacia noviembre de 1999 más de 591.901 hectáreas del total de 1,8 millones de hectáreas de la región de la Cordillera habían sido cubiertas por diferentes solicitudes mineras, ya en diversos estadios de procesamiento, para su aprobación. Mientras tanto, la mayoría de las comunidades afectadas ya han declarado su oposición a la minería a gran escala.

El Movimiento de las Mujeres Indígenas en la Cordillera

El movimiento de las mujeres indígenas en la Cordillera ha tomado impulso en 1999 hasta el presente con el aumento de la cantidad de mujeres que participan activamente en la campaña por la defensa de la tierra, la vida y los recursos. El pasado febrero de 1999, en Mainit, Bontoc, las mujeres estuvieron en la vanguardia de la lucha para expulsar a un equipo de investigadores que representaban a Mainit Resources International Incorporated que está planeando realizar actividades mineras en su aldea.

La organización de mujeres en Mainit fue también anfitriona de la celebración del Día de la Cordillera en 1999. Su capacidad de hacerlo es indicativa de su creciente fortaleza.

En una comunidad cercana, las mujeres de Guinaang, Bontoc, junto con otros residentes, marcharon hasta el destacamento militar de su comunidad y presentaron su petición para el retiro de las Fuerzas Armadas de las Filipinas de su aldea. Citaron como razones el abusivo comportamiento de la tropa, el acoso sexual de las mujeres y la frecuente ebriedad. Esto ha incitado al ejército a abandonar el área.

En septiembre de 1999, en Tiglayan, Kalinga, las mujeres de Tulgao presentaron una petición contra el plan de construir una planta geotérmica en su área. Las mujeres se reunieron y enfrentaron al proponente del proyecto con su acción de protesta. Esto indujo al proponente del proyecto a abandonar temporariamente el plan.

En las provincias de Abra, Kalinga y Mountain Province, así como en el área de Metro Baguio de Benguet, las mujeres han podido lanzar sus respectivas federaciones provinciales de mujeres. Todas se aliaron con Innabuyog, la alianza regional de mujeres indígenas en la Cordillera. Planean celebrar una Asamblea Regional del 6 al 8 de marzo del 2000 con el tema, "Fortalecer y Consolidar el Movimiento de las Mujeres en la Cordillera. Defender la tierra, la vida y los recursos"

Fuentes

Diversos documentos y compilaciones de la Alianza de los Pueblos de la Cordillera.
Chaneg, una publicación del Centro de Recursos y Educación de las Mujeres de la Cordillera.

Palawan

En el año 1999-2000, Palawan, la "última frontera" de las Filipinas, se encuentra al borde de un cambio. Mientras que las solicitudes de CADC (Certificados de Demanda de Dominio Ancestral) según la IPRA (Ley de los Derechos de los Pueblos Indígenas) están ahora congeladas, las ONGs locales todavía tienen que ponerse de acuerdo sobre una estrategia común para asegurar las tierras indígenas.

La finalización del camino de "circunvalación" que rodea y cruza toda la provincia de Palawan es una ambición clave que el gobierno intenta lograr antes de la finalización del año 2000. El principal tramo de camino fue abierto en 1992. Ahora ha sido alargado y completado. En vez de proteger los bosques existentes a lo largo del camino, el gobierno local de la Municipalidad de Rizal ha alentado el asentamiento irregular de migrantes. Porciones de tierras boscosas cruzadas por la ruta nacional también han sido abiertas a la Federación de Agricultores por la Reforma Agraria durante la administración previa del Alcalde Nicola Montaño. De acuerdo a algunos informantes, más de 40 hectáreas de buenos bosques en Punta Baja han sido entregadas a uno de los políticos que se propuso como Alcalde durante las últimas elecciones del año 98.

Un reciente relevamiento de tierras realizado por la organización indígena local Bangsa Palawan, Filipinas (BPP), en colaboración con el Programa para los Pueblos del Bosque con sede en el RU, revela que la ruta pasa también a través de un terreno empinado y quebrado, frecuentemente a través o a lo largo de corrientes de agua y canales, causando así una importante cantidad de deposición de suelo y sedimentación en ríos y pantanos de mangle durante la fase de construcción. Esto se debe principalmente al limitado presupuesto disponible para la construcción de caminos, lo cual lleva a economizar a expensas del medio ambiente. Muchas comunidades indígenas visitadas durante la misión investigadora del FPP están muy preocupadas sobre el futuro impacto de la ruta. Algunas familias están planificando incluso vender sus mejoras agrícolas y abandonar el área antes de que la ruta llegue a sus lugares. La situación encontrada sugiere que, hasta ahora, los contratistas de la ruta no tienen Certificado de Cumplimiento Ambiental (ECC) como lo

641

ción de enfermedades intestinales e influenza, cobrando muchas víctimas entre la población infantil indígena.

Después de la suspensión del DENR de todas las solicitudes pendientes de demandas de tierras ancestrales, la seguridad de la tierra indígena está ahora bajo serias amenazas. En Barangay Bulalacao (Municipalidad de Bataraza) la comunidad palawan está siendo intimidada para que abandone su tierra, que le fue otorgada mediante una resolución municipal en 1967. Su tierra es ahora demandada por la localmente influyente familia Narrazid, que tiene fuertes conexiones con las autoridades gubernamentales de Bataraza. La comunidad está siendo amenazada de que tiene que pagar 30.000 pesos por familia para continuar viviendo en su parcela de tierra, o abandonar el área. Actualmente, también la tierra de las comunidades palawan de Maasin, Mambalot e Ipilan (Municipalidad de Brookes Point) están siendo amenazadas por la operación de la Celestial Mining Exploration Corporation.

El paquete gubernamental para la seguridad de la tenencia y el manejo forestal sustentable está lejos de ser aceptable. En realidad, hay un resurgimiento de políticas forestales represivas, reintroducidas bajo rúbricas y acrónimos aparentemente benévolos como el acuerdo CBFM (Manejo Forestal de Base Comunitaria). En realidad, esa política no es culturalmente aceptable y no puede brindar una cantidad adecuada de alimentos. La política CBFM viola los derechos indígenas a sus tierras ancestrales, y perpetra el control gubernamental sobre los medios de subsistencia indígenas. De hecho, con CBFM el rol de los pueblos indígenas en su propio territorio se ve reducido al de cuidadores de tierra pública. Por ejemplo, en el acuerdo alcanzado entre la Oficina Provincial de Medio Ambiente y Recursos Naturales (PENRO) y la Asociación de Batak de Tina, se especifica que los beneficiarios indígenas deberían "asumir inmediatamente la responsabilidad para la protección de toda la tierra forestal dentro del área CBFM contra el talado ilegal y otras extracciones no autorizadas de productos forestales, la agricultura de limpieza y quema (kaingin), los incendios de bosques y pasturas y otras formas de destrucción forestal y asistir al DENR en la prosecución de los violadores de las leyes forestales y ambientales". Claramente, el contrato requiere que los mismos *batak* deben preservar el área de sus propias actividades, como la agricultura "swidden".

En 1999, como resultado de la incertidumbre general sobre la tenencia de la tierra, una creciente cantidad de pueblos indígenas han "vendido" sus tierras a inmigrantes filipinos. De acuerdo a varios funcionarios del barangay, la tierra no está siendo vendida en realidad a los inmigrantes en una forma co-

requiere la Orden Administrativa No. 96-37 del Departamento de Medio Ambiente y Recursos Naturales (DENR). Tanto los empleadores de la oficia del distrito Narra del Departamento de Obras Públicas y Autopistas (DPWH) como el oficial de información sobre asuntos públicos de la Provincia relataron a los miembros de BPP que las regulaciones ambientales existentes son frecuentemente ignoradas porque lleva demasiado tiempo obtener el Certificado de Cumplimiento Ambiental del DENR. Lo mismo puede decirse sobre las canteras de grava de las municipalidades de Puerto Princesa y Roax. La grava para la expansión y pavimentación del tramo norte de la ruta nacional está actualmente siendo extraída en cantidades comerciales. Dentro del territorio tradicional de las comunidades *batak*, las riberas de los ríos Tanabag y Mayon están siendo seriamente dañadas por las pesadas maquinarias de las compañías Weing y Hanjin.

La ruta está también amenazando valiosos sitios de mangles que son una importante fuente de subsistencia para las comunidades locales palawan, especialmente en Barangay Panalingaan. Mangles de viejo crecimiento están siendo destruidos en Barangay Tabur, donde son convertidos por los migrantes en plantaciones de nipa (*Nipa fruticans*) o en campos de casaba y bananas. La explotación a gran escala de la corteza de mangle también ocurre en torno a los asentamientos de Batu Batu, Kolang Danum, Imbu y Talukan (Barangay Bataraza). La corteza de mangle es usada en las Filipinas para la industria del teñido, como ingrediente para procesar una bebida similar a la coca cola, para medicina y otros propósitos. Los miembros del BPP recibieron información de que bandas armadas de las islas exteriores (Balabac, Mangsi, Bankalaan) están controlando el comercio de la corteza y otras actividades ilegales. En forma disturbante, los indígenas no siempre realizan el trabajo de recolección de corteza voluntariamente. Algunos informantes alegan que pueden ser físicamente amenazados si se niegan a trabajar para las bandas.

La Niña arrasó la isla de Palawan entre enero y abril de 1999 y, de acuerdo a los indígenas, causó consecuencias más severas que El Niño. Debido a las lluvias excesivas, los "swiddeners" indígenas pudieron quemar sólo pequeñas porciones de su tierra limpia. Parecería que la reducción de actividades agrícolas (que son principalmente manejadas por las mujeres) está teniendo un impacto negativo sobre los roles de género. En realidad, para compensar la pérdida de la agricultura, la gente debió dedicarse a actividades controladas y organizadas solamente por hombres. Como resultado, la situación de las mujeres indígenas como proveedoras de alimentos tiende a disminuir. La transición de El Niño a La Niña también ha sido caracterizada por la apari-

mercial normal. En cambio, argumentan que los ocupantes indígenas que desarrollaron primero la tierra (es decir, mediante la limpieza del bosque, la plantación de cultivos perennes, etc.) están simplemente transfiriendo a los inmigrantes el derecho a continuar el desarrollo agrícola de la tierra. La "transferencia de derechos" es reconocida por el capitán del barangay bajo la presencia de ambas partes (los vendedores indígenas, los compradores inmigrantes) y luego es certificada por el Alcalde Municipal. Existe mucha explotación durante la venta de "derechos a la tierra". El precio requerido por una hectárea de tierra es ridículamente bajo, promediando entre 2.000 y 3.000 pesos (US$ 53-79).

Actualmente, incluso el reconocimiento legal de las demandas indígenas a su dominio ancestral sería insuficiente para impedir el agotamiento de los recursos en la isla de Palawan. Esto se debe a que los agentes causales de la explotación forestal, la destrucción de arrecifes de coral y otras formas de degradación del medio ambiente en Palawan no pueden ya ser atribuidos a una sola fuente. Por lo tanto, detener a los "extranjeros" de explotar los recursos locales no detendría necesariamente a los locales de la sobre-explotación de su propia base de recursos. Debido a una creciente falta de alimentos, incluso los pueblos indígenas son alentados a adoptar tecnologías destructivas (es decir, instrumentos pesqueros ilegales).

Por un lado, la nueva transformación social y económica que tiene lugar en Palawan requiere un cambio del tratamiento convencional de arriba-abajo de los problemas ambientales al micro nivel, y entonces a la diversidad y creatividad de los enfoques indígenas para el uso de recursos. Por otro lado, las ONGs locales deberían plantear una política más unitaria lo antes posible y definir donde se ubican en las cuestiones de poder, alianzas políticas y derechos indígenas.

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644

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Mindanao

Apenas se habían recuperado de la larga sequía y subsiguiente invasión de ratas y langostas causadas por El Niño en 1998, cuando los *menuvû*, pueblo indígena de Mindanao Central, fueron arrastrados a un violento conflicto entre el ejército filipino y el Frente Islámico de Liberación Moro (MILF).

Todo el conflicto comenzó el 27 de octubre de 1999, cuando los elementos combinados del 8º Batallón de Infantería del Ejército de las Filipinas, la Unidad Geográfica de Fuerzas Armadas Civiles (CAFGU) y la Organización de Voluntarios Civiles Menuvû (CVO) atacaron los campos fortificados del MILF en Mekebimban. El intenso tiroteo duró tres días y costó las vidas de tres *menuvûs*. Como aparente represalia, el MILF profanó los cadáveres insertándoles boniatos en las bocas y vaciándoles los ojos y rellenándolos con maíz molido. Una semana después, los grupos fanáticos llamados Ejército de Liberación Cristiano (CLA) dispararon sobre granjeros musulmanes en Keyumangen, una aldea adyacente a Kilavew. Un par de días después del ataque del CLA, un centenar de guerrilleros del MILF armados con granadas propulsadas por cohetes y armas de fuego de alto poder, tomaron Tehimtim

sin ninguna resistencia por parte de los CVOs residentes. "Se nos ordenó a punta de revólver que caváramos hoyos para atrincherarse y demoliéramos nuestras casas para utilizar los materiales para cubrir sus trincheras" relataba Timuèy Ngawil Limpid, el líder *menuvû* que fue tomado como rehén pero que más tarde logró escapar. Alrededor de 500 familias *menuvû* perdieron sus casas y granjas, desde que estalló la lucha entre las tropas del gobierno y el MILF en Mindanao Central. La mayor parte de los evacuados se cobijaron temporalmente en centros de evacuación en Liliongan, Kimaadsil, Kibudtungan, Aroman y Población Carmen. La escasez de comida se añadió a las dificultades de los *menuvû* evacuados. "Estaríamos contentos si el DSWD (Departamento de Bienestar Social y Desarrollo) distribuyera cinco kilos de arroz por familia una vez cada dos semanas" dijo Eminta Detuwata, viuda con cinco hijos y evacuada de otra villa afectada llamada Pinementangan, "pero ahora, parece que ya hemos sido olvidados" continuó. Para lograr algún dinero para vivir, Eminta y otras mujeres buscan trabajo entre los vecinos *bisayan* (pobladores cristianos) por una comida diaria.

La falta de comida forzó a los evacuados a visitar sus aldeas abandonadas para buscar algo de mandioca y bananas o para cazar animales salvajes. Dos cazadores *menuvû*, Puyat Lipetuwan, 37, y Bebot Empalid, 35, fueron torturados y asesinados, se sospecha que por rebeldes Moro.

Los tiroteos, bombardeos, evacuaciones y extraños asesinatos no eran nuevos para el pueblo de Cotabato especialmente en Carmen. A fines de los años '60, las comunidades Moro experimentaron masacres y otros asesinatos, mayoritariamente llevados a cabo por la policía filipina. A principios de 1968, la infame masacre de Menili en Carmen, Cotabato, ocurrió cuando 70 *moros* fueron asesinados; mujeres, niños y ancianos *moro;* dentro de su mezquita, por escuadrones de la muerte anti-*moros* llamados Ilaga, apoyados por militares. Esta masacre despertó el profundamente enraizado odio de los *moro* contra los cristianos.

En setiembre de 1996, la Organización de la Conferencia Islámica (OIC) negoció un acuerdo de paz entre el Frente de Liberación Nacional Moro (MNLF) y el gobierno de la República de Filipinas (GRP). El MILF, entonces una facción del MNLF liderado por Salamat Hashim, anteriormente Vicepresidente del MNLF echaba humo fuera de la línea de juego, en tanto que los representantes del gobierno negociaban con Misuari, el líder del MNLF. Sin que las autoridades le prestaran mucha atención, el MILF acumuló armas, reclutó hombres y fortificó sus campos en el interior de las provincias de Maguindanao, Lanao, Sarangani y Cotabato.

Menos de un año después de la firma del acuerdo de paz entre el gobierno de Filipinas y el MNLF, el MILF no se conformó con estar fuera del campo de juego. Reclamó el centro de la escena en la resolución del llamado problema *moro* en Mindanao. En febrero de 1997, el gobierno comenzó conversaciones con el grupo rebelde. Pero en los meses subsiguientes, el MILF peleó sangrientas batallas con tropas gubernamentales en diferentes partes de Mindanao. El MILF extendió sus reclamos territoriales y exigió impuestos revolucionarios, incluso de las aldeas de los pueblos indígenas (que son generalmente llamados *lumad* en Mindanao). Las tierras de labranza abandonadas de los *lumad* y los cristianos fueron tomadas por los granjeros *moro*, como en Vekbaken, Kilawew y Pegelungan en Carmen, Cotabato y Fenangket a lo largo de las fronteras de las Provincias de Sultán Kudarat y Maguindanao de las tribus *dulangan manobo* y *lambangian*.

En el amanecer del 27 de abril de 2000, los representantes del MILF y los representantes del panel de paz firmaron un acuerdo de paz preliminar. Pero menos de siete horas después, las tropas de caballería del gobierno atacaron las instalaciones de la guerrilla a lo largo de la Carretera Narciso Ramos cerca del Campamento Abubakre As Siddique, el principal centro neurálgico del MILF. Tres días más tarde, después del ataque, el comité central del MILF comunicó una suspensión unilateral de las conversaciones de paz. Unos 500 efectivos de las fuerzas del MILF se habían estacionado a lo largo de la ruta a la altura de la ofensiva militar que buscaba limpiar la carretera de rebeldes *moro*. En menos de tres semanas de intensa lucha, la batalla arrojaba 101 militares muertos en acción y otros 21 desaparecidos, bajas no reveladas del lado rebelde, 41.000 civiles desplazados de sus hogares y millones de pesos en propiedades dañadas. ONGs, POs y líderes de la Iglesia urgieron a las partes en contienda a cesar las hostilidades y volver a la mesa de negociaciones. El 30 de mayo, el MILF acordó reanudar las conversaciones de paz con el gobierno. En tanto que ambos paneles comenzaban sus conversaciones en un hotel en la ciudad de Cotabo, un contingente de tropas de caballería gubernamentales marcharon sobre el Campamento *bushra* en Lanao del Sur y lo invadieron. La ofensiva militar contra los campamentos del MILF no afectará las conversaciones según el Congresista de Cotabato, dijo Anthony Dequiña. "Estamos solamente haciendo nuestro trabajo de acuerdo con el mandato de la constitución, protegiendo a los civiles de los elementos fuera de la ley" dijo el congresista.

Para complicar más las cosas, el Grupo Abu Sayyaf, un grupo islámico extremista siembra el terror en Basilan y Jolo asesinando o raptando desafortunados civiles por la causa del Islam. (Como los 19 turistas y dos filipinos de

647

vacaciones en una playa de buceo en la Isla Sipada a cierta distancia de Sabah, Malasia, el 23 de abril de este año).

Entre otras cosas, el Abu Sayyaf exige la creación de un estado islámico separado en Mindanao, la creación de una Comisión en Sabah para vigilar la situación de los refugiados *moro* en Sabah, Malasia y proyectos de sobrevivencia en Mindanao Sur especialmente en Basilan y Jolo. Hasta ahora, el gobierno se aferra a su política de "terminar con" el MILF y el grupo terrorista por medios militares. Sin embargo, las crecientes presiones internacionales para que el gobierno de Filipinas negocie, lo han hecho reconsiderar su posición militarista.

TIMOR ORIENTAL

Timor Oriental fue una colonia portuguesa durante más de 400 años. En 1975 fue invadida por Indonesia que la proclamó la 27ª provincia de Indonesia al año siguiente. La ocupación indonesia fue brutal: al menos 200.000 personas –casi un tercio de la población antes de la invasión – perdieron la vida como resultado de la guerra, el hambre o enfermedades. También fue ilegal: nunca fue reconocida por las Naciones Unidas.

En 1999 Indonesia finalmente aceptó un referéndum sobre el futuro estatus de Timor Oriental, pero al mismo tiempo patrocinó más violencia en el territorio. A continuación del referéndum, en el cual los *timorenses orientales* votaron abrumadoramente en favor de la independencia, llegó una fuerza militar internacional e Indonesia tuvo que finalizar su ocupación.

Durante febrero del 2000 esta fuerza fue gradualmente reemplazada por un fuerza regular de mantenimiento de la paz de la ONU de 9.000 efectivos, observadores militares y civiles de 23 países. En este momento la ex colonia portuguesa está bajo la administración de la ONU mientras que se establecen los fundamentos de un Timor Oriental libre. Se espera la independencia formal para el 2001 o 2002.

¿Autonomía o independencia?

El 27 de enero de 1999 el gobierno indonesio anunció que estaba preparado para otorgar al pueblo de Timor Oriental dos opciones: autonomía dentro del estado indonesio o independencia. Fue la primera vez que el gobierno de Yakarta mencionó la posibilidad de abandonar Timor Oriental. Por lo tanto, fue un importante paso adelante. Pero todavía no estaba claro cómo los

timorenses orientales iban a expresar su opinión, porque Indonesia todavía se negaba a considerar un referéndum sobre el tema.

Al mismo tiempo apareció una nueva forma de violencia en Timor Oriental: las milicias pro-indonesias comenzaron a aterrorizar a la población, especialmente a aquellos que estaba a favor de la independencia. Las milicias estaban armadas, financiadas y entrenadas por el ejército indonesio (TNI).

Las autoridades indonesias estaban siguiendo una política a dos puntas: un grupo en torno al Presidente Habibie estaba dispuesto a abandonar Timor Oriental porque era una vergüenza internacional para Indonesia; mientras que otro grupo en torno al Ministro de Defensa Wiranto quería retener a Timor Oriental por diversas razones: en primer lugar, muchos generales tenían intereses económicos en Timor Oriental, segundo, sería humillante para Indonesia retirarse de Timor Oriental, finalmente, un Timor Oriental libre podría alentar a otras áreas regidas por Indonesia a luchar por la independencia (p. ej., Aceh o Papua Occidental).

El Acuerdo de Nueva York

El 5 de mayo de 1999 Indonesia y Portugal llegaron a un acuerdo en Nueva York. Los dos estados habían estado hablando sobre Timor Oriental durante muchos años, bajo los auspicios de la ONU, pero las negociaciones nunca habían producido resultados substanciales. Ahora Indonesia y Portugal acordaron que el pueblo de Timor Oriental debería ser consultado sobre su futuro estatus.

Fue la primera vez que Indonesia aceptó un referéndum sobre el tema. Por lo tanto, fue un importante paso adelante. Pero también había una parte negativa en el acuerdo de Nueva York: Indonesia sería responsable de la seguridad antes y después del referéndum. Las organizaciones de derechos humanos alertaron contra esto: el ejército indonesio había causado muerte y destrucción en Timor Oriental durante más de 20 años, argumentaron. Cuando el acuerdo fue firmado, ya habían habido muchos casos de violencia –la masacre en el complejo de la Iglesia Liquica, el ataque al hogar de Manuel Carrascalao, etc.- y no había ninguna indicación de que el ejército fuera a proteger la ley y el orden. ¿Cómo podría alguien creer que este ejército respetaría el resultado del referéndum si los timorenses orientales votaran contra Indonesia?

Claramente, este no era un acuerdo ideal, pero Indonesia insistió, y en ese momento ningún gobierno occidental estaba dispuesto a presionar a Indonesia sobre este punto. Entonces, Portugal y la ONU lo aceptaron, porque parecía

imposible llegar a un acuerdo mejor. Al comienzo, la votación estaba programada para comienzos de agosto. Luego fue pospuesta para el 30 de agosto.

La ONU estableció la Misión de Asistencia de las Naciones Unidas en Timor Oriental (UNAMET) para organizar el referéndum. El personal de UNAMET estaba constituido por civiles no armados, que eran incapaces de detener la creciente violencia. Ni siquiera podían defenderse a sí mismos; algo que resultó ser fatal cuando la situación explotó a comienzos de septiembre.

El Referéndum

A pesar de la creciente violencia, UNAMET fue capaz de registrar votantes, realizar las consultas, recolectar las listas de votación y contar todos los votos. Pero fue incapaz de permanecer en Timor Oriental después de la votación. El referéndum tuvo lugar el 30 de agosto de 1999. Fue un día relativamente pacífico, al menos de acuerdo al estándar que prevalecía en el territorio, y el resultado fue anunciado cinco días después. Fue impresionante: el 98,6% de los votantes registrados concurrieron a las urnas, y el 78,5% de ellos votaron por la independencia. Dado el hecho de que esto tuvo lugar en una atmósfera de violencia, con milicias pro-indonesias tratando de intimidar al pueblo para que votara por Indonesia, el resultado fue incluso más impresionante.

Apenas un día después de la votación, las milicias comenzaron otra vez sus acciones, presumiblemente temían que el resultado iría en su contra. Tenían buenas razones para ello y cuando el resultado fue anunciado el 4 de septiembre, las cosas se pusieron peor, con las milicias aterrorizando a la población y destruyendo propiedad en una escala sin precedentes.

El ejército indonesio no podía –o no quería- hacer nada para detenerlos. La mayoría de los extranjeros comenzaron a abandonar el territorio por temor por sus vidas: periodistas, trabajadores de la cooperación e incluso UNAMET, que había prometido permanecer en Timor Oriental después de la votación, independientemente del resultado.

En muchas formas la situación era similar a la de la época apenas anterior a la invasión indonesia en 1975. Parecía que las autoridades indonesias no querían tener ningún testigo extranjero presente cuando fueran a arreglar la situación con los timorenses orientales que no habían votado como ellos querían.

La mayoría de los edificios fueron destruidos, especialmente en la capital Dili. Unas 200.000 personas huyeron a las montañas para escapar al terror, mientras que otras 250.000 personas fueron forzosamente empujadas a través

de la frontera hacia el Timor Occidental indonesio y otras islas donde terminaron en campamentos controlados por milicias del TNI. De acuerdo a las cifras de la ONU, la campaña de la milicia del TNI expulsó a una cifra estimada de 750.000 personas de la población de 880.000 personas de Timor Oriental fuera de sus casas. Un enorme desplazamiento en un corto período de tiempo.[1]

La lógica de las milicias y del ejército indonesio parecía ser que si no podían tener a Timor Oriental, no lo tendría nadie. Quizá también significó una advertencia a otras áreas gobernadas por Indonesia que quería secesionarse de Indonesia. Esto, aunque Timor Oriental nunca había sido parte del sistema colonial holandés. Estaba bajo Portugal y, por lo tanto, el movimiento de resistencia timorense oriental no era un movimiento secesionista.

El fin de la ocupación indonesia

Estos eventos atrajeron finalmente la atención de la comunidad internacional. Durante un breve momento en la historia, en agosto y septiembre de 1999, Timor Oriental estuvo en la primera plana de los medios mundiales de difusión – después de que había sido enormemente olvidado durante décadas.

El Presidente de los EE.UU., Bill Clinton, exhortó a Indonesia a terminar con la violencia en Timor Oriental y Australia ofreció enviar tropas para realizar el trabajo. Pero Indonesia rehusó aceptar tropas extranjeras en el territorio. El 11 de septiembre de 1999, los EE.UU. y la Unión Europea anunciaron que suspenderían toda la asistencia civil y militar a Indonesia. Apenas un día después el Presidente Habibie aceptó una fuerza militar internacional en Timor Oriental.

El 15 de septiembre de 1999 el Consejo de Seguridad de la ONU adoptó una resolución que autoriza a una fuerza militar internacional (INTERFET) hacerse cargo de la seguridad en Timor Oriental. La fuerza fue dirigida por Australia y compuesta por tropas de 16 países, principalmente asiáticos. La fuerza, que sumó 11.000 efectivos, comenzó a arribar a Dili cinco días después del voto del Consejo de Seguridad. En la medida en que INTERFET comenzó a llegar, el ejército indonesio comenzó a retirarse del territorio.

El 20 de octubre de 1999 la Asamblea Nacional indonesia ratificó el referéndum, abriendo así el camino para la libertad de Timor Oriental. Once días más tarde las últimas tropas indonesias abandonaron el territorio, finalizando así casi 24 años de ocupación ilegal. Durante febrero del 2000, INTERFET fue gradualmente reemplazada por una fuerza de paz dirigida por el Teniente General Jaime de los Santos de las Filipinas.

651

El 25 de octubre de 1999 el Consejo de Seguridad de la ONU adoptó una resolución estableciendo la Administración Transitoria de las Naciones Unidas en Timor Oriental (UNTAET) para preparar a la ex colonia portuguesa para la independencia. UNTAET formó un Consejo Consultivo Nacional consistente de 15 miembros el cual es consultado sobre todas las decisiones importantes. Se supone que la composición del consejo refleja el resultado del referéndum. Por lo tanto, el movimiento pro-independentista (CNRT) tiene siete escaños, el movimiento pro-autonomía tres, la influyente iglesia católica uno y UNTAET cuatro.

Los problemas del futuro

Timor Oriental es libre. Después de una larga y costosa lucha. Pero aunque Indonesia ha retirado sus tropas del territorio, los problemas están lejos de desaparecer. En una carta de diciembre de 1999, la organización de solidaridad estadounidense "East Timor Action Network" señaló cuatro áreas donde la nueva nación enfrentaba serios problemas:

- "Más de 100.000 timorenses orientales todavía están detenidos en Timor Occidental y otras partes de Indonesia donde fueron llevados a punta de fusil después de la votación. Cientos de niños han muerto en campamentos controlados por la milicia. La milicia debe ser desarmada y desbandada y se debe permitir que la gente retorne a casa.
- "La venganza de septiembre destruyó la mayoría de las necesidades –alimentos, agua, abrigo, atención médica- en Timor Oriental. Casi todos los pueblos y la gran mayoría de las casas deben ser reconstruidos. El pueblo necesitará ayuda internacional durante muchos meses. Las agencias humanitarias están ahora brindando asistencia, pero necesitan trabajar más estrechamente con los líderes locales.
- "Los timorenses orientales deben diseñar su nueva nación –su gobierno, agricultura, educación, leyes, economía, infraestructura- superando el legado de cinco siglos de ocupación y evaluando críticamente los modelos propuestos desde el exterior.
- "Los timorenses orientales deben tratar con la administración transitoria de la ONU y la agencias de ayuda internacionales y asegurar de que emergerán de la actual ocupación bien intencionada con su sociedad, cultura e independencia intactas."

652

Ley y orden

Los miembros del movimiento independentista de Timor Oriental (CNRT) siempre han apelado al sistema internacional de ley y orden, incluso aunque este sistema no ha hecho mucho por ellos. En realidad, las Naciones Unidas los abandonaron dos veces: la primera vez cuando Indonesia invadió el territorio en 1975, la segunda vez en conexión con el referéndum de agosto de 1999.

El CNRT luchó una lucha armada contra Indonesia en Timor Oriental que era legal porque era un claro caso de autodefensa. Pero nunca llevó la lucha armada a Indonesia u otras partes del mundo. Nunca bombardeó supermercados en Yakarta, nunca secuestró aviones indonesios. Este enfoque legalista es sumamente encomiable, pero también una de las razones por las cuales poca gente prestó atención a su caso durante muchos años.

La intervención de la ONU en septiembre de 1999 fue bienvenida por mucha gente en todo el mundo, incluyendo el CNRT. También fue alabada en los medios de difusión. Pero la mayoría de los informes de prensa eran bastante desorientadores, porque pretendían que el conflicto era nuevo, cuando en realidad tenía más de 25 años. La mayoría de los informes de prensa no destacaron tres importantes hechos históricos:

- La ONU no había hecho nada virtualmente para detener la agresión en 1975.
- Los poderes occidentales habían estado apoyando activamente al agresor desde 1975.
- Los medios de difusión occidentales ignoraron el conflicto hasta hace poco.

La responsabilidad de occidente

Fue comprensible que la intervención de la ONU fuera bienvenida. Pero también se alzaron algunas voces críticas y escépticas, voces que llamaron la atención hacia el hecho de que los gobiernos occidentales tienen parte de la responsabilidad por lo que pasó en Timor Oriental ya que durante años han apoyado al gobierno de Suharto y sólo recientemente comenzaron a distanciarse de Indonesia.

Un caso a señalar es el académico estadounidense Noam Chomsky quien ha escrito y hablado sobre Timor Oriental durante muchos años. En un comentario del 12 de octubre de 1999 hizo énfasis en que los EE.UU. tienen una grave responsabilidad por lo que ha pasado en Timor Oriental:

653

"No había necesidad de amenazar con bombardeos o incluso sanciones. Hubiera sido suficiente para los EE.UU. y sus aliados retirar su activa participación e informar a sus asociados en el comando militar indonesio que las atrocidades deberían ser terminadas y el territorio debería tener derecho a la autodeterminación, tal como lo sostiene las Naciones Unidas y la corte internacional de justicia. No podemos rehacer el pasado, pero al menos deberíamos estar dispuestos a reconocer lo que hemos hecho y enfrentar la responsabilidad moral de salvar a los que quedan y proveer reparaciones – un pequeño gesto de compensación por crímenes terribles".

Chomsky destacó que los EE. UU. trataron de socavar el gobierno del primer presidente de Indonesia (Sukarno) pero apoyaron el del segundo presidente (Suharto) quien asumió el poder en 1965:

"Los ricos recursos del archipiélago y su ubicación estratégica crítica, le garantizaron un papel central en la planificación global de los EE.UU. Estos factores son subyacentes a los esfuerzos de los EE.UU: durante 40 años para desmantelar a Indonesia, percibida como demasiado independiente y demasiado democrática – permitiendo incluso la participación de campesinos pobres. Estos factores cuentan para el apoyo occidental del régimen de asesinos y torturadores que emergió del golpe de 1965". [2]

Durante el período 1992.1998, los EE.UU. siguieron una política ambigua con respecto a Indonesia y Timor Oriental: mientras que el Congreso hacía recortes en el envío de armas y ayuda militar, el Pentágono repetía al TNI que ellos quisieran reasumir las relaciones normales.

Y Grant y Duval dieron un vívido ejemplo de la actitud oportunista de algunos gobiernos occidentales:

"Gran Bretaña suspendió la venta de aviones de combate Hawk que estaban por enviarse a Indonesia, porque el envío de estas armas en ese momento provocaría un tremendo escándalo. Esto fue un gesto vacío y no altera el hecho de que durante décadas Gran Bretaña, los Estados Unidos y Australia han estado armando a la sangrienta dictadura de Suharto con armas que fueron usados contra el pueblo en Timor Oriental. Sin embargo, el 20 de septiembre se filtraron noticias

del Ministerio de Defensa británico de que los aviones de combate Hawk serían entregados de cualquier manera".

Abandonados por las Naciones Unidas

En un documento escrito por Ted Grant y Jean Duval y enviado a internet el 20 de septiembre de 1999 criticaron al CNRT por poner demasiada fe en la ONU:

"Pero las Naciones Unidas, que están en realidad completamente subordinadas a los Estados Unidos, ya ha demostrado una cínica indiferencia con respecto al destino de Timor Oriental durante un período de 24 años. Imaginar que este foro imperialista puede ahora cambiar su posición es inocente en extremo".

Presumiblemente, la frase "foro imperialista" es una referencia a Gran Bretaña, Francia y otros (antiguos) poderes coloniales. Pero incluso los países socialistas han estado apoyando a Indonesia. En realidad, durante las discusiones del Consejo de Seguridad en 1999, China fue el mejor amigo de Indonesia y jugó un papel clave en la limitación de la actividad de la ONU.

Grant y Duval no fueron impresionados por el rol de la ONU:

"La conducta de las así llamadas Naciones Unidas desde el referéndum ha sido sublevante al extremo. La presencia de observadores no armados fue una farsa que jugó simplemente el rol de engañar al pueblo timorense oriental en una falsa sensación de seguridad y desarmarlos frente a una reacción armada"

"Todo el tiempo la ONU ha actuado como una farsa repugnante, pretendiendo intervenir en nombre de los timorenses orientales, echando lágrimas de cocodrilo y haciendo llamados hipócritas al ejército indonesio para que restablezca el orden, cuando todo el mundo sabía que este mismo ejército estaba detrás de las milicias. Y ahora, esta misma ONU quiere posicionarse frente al mundo como los salvadores de Timor Oriental. ¡Qué ironía abominable!" [3]

Derechos humanos

Un tema que ha generado mucha discusión es la cuestión de la violación de los derechos humanos en Timor Oriental: ¿Qué pasó? ¿Quién fue responsable? ¿Cómo pueden los responsables ser obligados a rendir cuentas? ¿Quién

se ocupará de la cuestión: el mismo Timor Oriental, Indonesia o un tribunal internacional establecido por la ONU? En algunos aspectos, la discusión de estos temas es fundamentalmente defectuosa porque sólo cubre lo que pasó durante 1999. Lo que pasó entre 1975 y 1998 parece estar completamente olvidado, aunque la cantidad de los crímenes fue mucho mayor que en ese período.

Un caso destacable es el informe de la Comisión de Derechos Humanos de Indonesia (KOMNASHAM) que cubre los eventos de Timor Oriental desde enero de 1999 hasta que la sentencia del Parlamento en octubre de 1999 ratificó los resultados de la consulta popular. Un sumario ejecutivo del informe completo fue publicado en Yakarta el 31 de enero del 2000.

La Parte II del Sumario establece:

> *"Primero, había una fuerte relación y vínculo entre el TNI, Polri, burocracia del gobierno y las milicias. Segundo, la violencia que ocurrió en Timor Oriental que comenzó después del anuncio del ofrecimiento de las dos opciones hasta el período después de los resultados de la consulta popular fueron anunciados no fue causada por una guerra civil sino que fue un resultado de una sistemática campaña de violencia".*

La Parte III presenta seis tipos de crímenes cometidos por las milicias: asesinatos sistemáticos y en masa; tortura y maltratos; desapariciones forzadas; violencia basada en el género; desplazamiento forzado de civiles y una campaña de tierra devastada.

La parte IV documenta diez casos primarios cometidos durante el período de enero de 1999 octubre de 1999: la masacre del complejo de la Iglesia Liquica; el asesinato de aldeanos de Kailaco; el ataque a la casa de Manuel Carrascalao; el ataque a la Diócesis de Dili; el ataque a la casa del Obispo Belo; la destrucción masiva y asesinatos en Maliana; la masacre en el complejo de la Iglesia Suai; el asesinato de un periodista holandés; la matanza de figuras religiosas en Los Palos y la violencia contra las mujeres. [4]

KOMNASHAM fue establecida por el gobierno indonesio en 1993 a continuación de una resolución adoptada por la Comisión de Derechos Humanos en Ginebra. Durante el período de Suharto fue severamente controlada, pero se ha independizado más desde ese entones. Puede investigar y hacer recomendaciones; pero no tiene poderes para juzgar. KOMNASHAM ha elaborado un importante informe, aunque omite todos los acontecimientos entre abril

y agosto. ¿Pero actuarán las autoridades indonesias según las recomendaciones?

Durante febrero del 2000 la discusión sobre este tema se centró en el General Wiranto quien era Ministro de Defensa durante Habibie y se convirtió en Ministro de Seguridad bajo su sucesor Abdurrahman Wahid (Gus Dur). El presidente le dijo al general que renunciara, pero él se negó, diciendo que era inocente. Finalmente, después de muchos días de declaraciones y contra declaraciones, el general renunció. El Presidente Wahid dijo que Wiranto debería ser juzgado ante la justicia, agregando que debería ser perdonado si fuera encontrado culpable. ¿Es esto realmente justicia?

El 1 de marzo del 2000 Wahid hizo una visita oficial a Timor Oriental donde se disculpó por 24 años de ocupación indonesia. Puso un corona floral en el cementerio de Santa Cruz donde en noviembre de 1991 tropas indonesias mataron a más de 200 manifestantes desarmados. También lanzó pétalos de flores en un cementerio cercano para las tropas indonesias que perdieron sus vidas durante y después de la invasión del territorio en 1975:

David Ximenes del CNRT dijo que el movimiento de resistencia aceptaba su disculpa, pero agregó que la comunidad internacional tenía el derecho de decir que los responsables deberían ser censurados por sus acciones.

¿Como llegó al fin el conflicto?

La retirada de Indonesia de Timor Oriental y su ratificación del referéndum marcaron el fin del conflicto de Timor Oriental, *de facto* y *de jure*. Pero antes de que cerremos el libro sobre este conflicto vale la pena preguntarse cómo fue posible.

Una interpretación es porque los gobiernos occidentales son serios cuando hablan de libertad y democracia, derechos humanos y respecto al derecho internacional. Cuando las cosas se fueron de la mano en Timor Oriental, actuaron rápidamente, enviando una fuerza militar internacional que llegó apenas tres semanas después del referéndum. De acuerdo a esta explicación, los poderes occidentales acudieron al rescate y los medios de difusión occidentales informaron todo con gran detalle.

Esta interpretación es promovida por los gobiernos occidentales y los medios, presumiblemente porque los presenta bajo una luz positiva, pero está contradecida por los hechos históricos: si los gobiernos occidentales realmente querían ayudar a Timor Oriental, podían y debían haberlo hecho en 1975. No lo hicieron. La ONU adoptó muchas resoluciones sobre Timor Oriental –el Consejo de Seguridad, la Asamblea General y la Comisión de Derechos Humanos- pero hasta 1999 la organización no hizo virtualmente nada

para implementar estas resoluciones. Los EE.UU. bloquearon cualquier acción seria de la ONU. Indonesia era considerada más importante que Timor Oriental. Los intereses económicos y estratégicos tenían prioridad sobre los ideales como libertad y democracia, derechos humanos y respeto por el derecho internacional.

Si los medios de difusión realmente querían ayudar a Timor Oriental, podían y debían haber cubierto el tema desde el comienzo en vez de permanecer silenciosos durante muchos años. Timor Oriental estaba aislado del mundo exterior por Indonesia. Pero siempre hubo información disponible para aquellos que querían saber lo que estaba pasando, especialmente a partir de 1990. Activistas de todo el mundo trataron de lograr que los medios de difusión cubrieran el caso, pero fueron casi siempre rechazados: Timor Oriental no era importante, no tenía valor de noticia, y de cualquier manera era una causa perdida, así que ¿para que molestarse?

Una segunda y más realista interpretación comienza con la crisis económica del Sudeste de Asia que golpeó particularmente fuerte a Indonesia. La crisis comenzó a mediados de 1997, debilitó la posición de Suharto y condujo a su caída en mayo de 1998. Cuando Suharto perdió control de la situación, perdió la protección internacional que había disfrutado desde su asunción del poder en 1965. Él había sido un amigo de occidente porque había protegido los intereses de occidente. Ahora que ya no era útil, se convirtió en un enemigo. Occidente se volcó contra él, llamándolo un dictador corrupto.

Suharto fue sucedido por su protegido, el Vicepresidente Habibie –una figura de transición- quien quería resolver el problema de Timor Oriental porque era una vergüenza internacional para Indonesia. Era una piedra en el zapato de Indonesia y Habibie quería librarse de ella. En otras palabras: la crisis económica de del Sudeste de Asia abrió una ventana por un breve instante de oportunidad para Timor Oriental, y éste logró traspasarla, aunque sólo después de soportar otra ola de muerte y destrucción.

¿Una respuesta rápida?

Otra cuestión que vale la pena preguntarse es por qué la comunidad internacional no reaccionó hasta septiembre de 1999. Otra vez tenemos dos interpretaciones.

Una interpretación dice que la ONU no podía intervenir hasta que Indonesia hubiera aceptado una fuerza extranjera en el territorio y esto no sucedió hasta el 12 de septiembre. Tan pronto se otorgó el permiso, la comunidad internacional actuó rápidamente: el Consejo de Seguridad adoptó una resolución apenas tres días después y las tropas comenzaron a arribar el 20 de septiem-

bre. De acuerdo a esto, la respuesta internacional no fue tardía, sino sumamente rápida.

Esta interpretación es promovida por los gobiernos y los medios de difusión occidentales, presumiblemente porque los presenta como defensores de los derechos humanos y el derecho internacional.

Una segunda y más realista interpretación comienza con el hecho de que Indonesia no tenía ningún derecho legal en Timor Oriental. Su presencia allí fue siempre una violación del derecho internacional. No era necesario pedir a Indonesia permiso para entrar al territorio. El hecho de que Indonesia fue solicitada permiso muestra que la comunidad internacional estaba de hecho legitimando la ocupación indonesia de Timor Oriental, al menos en algún grado.

Desde enero a septiembre de 1999 la violencia miliciana fue escalando semana a semana, pero la comunidad internacional no reaccionó hasta septiembre. Los eventos de Timor Oriental fueron informados en los medios de difusión con intensidad creciente, lo cual creó una presión del público internacional para la acción. Cuando la fuerza militar internacional fue autorizada por el Consejo de Seguridad de la ONU fue apoyada por el público, lo cual era crucial para que los políticos occidentales actuaran.

Indonesia finalmente cedió y aceptó una fuerza extranjera en Timor Oriental porque los EE.UU. y la UE decidieron suspender toda la asistencia militar y civil a Indonesia. Este poderoso instrumento podía y debía haber sido usado mucho antes del 11 de septiembre de 1999. Quizá debería haber sido usado después del 16 de octubre de 1975 cuando Indonesia mató a cinco periodistas extranjeros en Balibo. Si hubiera sido usado entonces, nunca hubiera habido una invasión indonesia. La ONU actuó 24 años después de la matanza de Balibo: ¿Es esto realmente una respuesta rápida?

Coraje y consecuencia

Hoy el pueblo de Timor Oriental está en una difícil situación. Mirando hacia atrás ve una experiencia traumática. Mirando hacia adelante ve un futuro exigente. Pocos pueblos han sufrido tanto desde la Segunda Guerra Mundial. Pero los timorenses orientales nunca se rindieron. Incluso aunque las chances estaban en su contra. El movimiento de resistencia (CNRT) fue organizado como lucha armada desde la montañas, una resistencia civil clandestina no violenta en las áreas ocupadas y una lucha diplomática en el exilio. Cuando finalmente llegó la oportunidad, estaban listos para tomarla.

Durante los largos años de muerte y destrucción el pueblo de Timor Oriental estaba representado por líderes que demostraron coraje y consecuencia así

659

como dedicación y determinación. Las figuras más importantes y más conocidas son Xanana Gusmao, Carlos Felipe Ximenes Belo y José Ramos-Horta:

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Fuentes

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INDONESIA

Indonesia bajo Suharto fue, como lo dijo el antropólogo John Pemberton una vez, un lugar donde no pasaba nada. Indonesia era de una quietud política rutinaria, era la ausencia de política tal cual la conocemos, como un espectáculo de fuerzas y actores luchando mutuamente, con movilizadores y agitadores buscando las candilejas. Cada cinco años, las pasiones populares eran permitidas expresarse durante dos meses ruidosos, tumultuosos, carnavalescos de campaña para cada uno de los tres partidos que contendían en las elecciones, elecciones que eran rutinariamente ganadas por el partido de gobierno siempre por el mismo margen. Después de estos "excesos" – una expresión estándar del régimen para estas agitaciones ocasionales, ataques a estaciones de policía, o a simpatizantes de un partido rival que se realizaban durante el período de campaña-, casi de un día para el otro el país se sumergía en su silencio durante otros cinco años, la normalidad y el orden prevalecían una vez más. La democracia era teatro, ritual, la afirmación y celebración del orden y la estabilidad, y el gobierno se aseguraba que "nunca se iba a tornar en algo que nos ponga tensos", como Suharto una vez definió su comprensión de este concepto. Los raros episodios de oposición al régimen en el interior de Java y los actos de resistencia en Timor Oriental, Papua Occidental y Aceh

eran considerados en los anales del "Nuevo Orden" como *peristiwa*, "incidentes" aislados, desafortunados que servían para subrayar la necesidad de una constante vigilancia contra las fuerzas dispuestas a desmembrar y desestabilizar la nación.

Hoy, dos años después de que Suharto tuvo que resignar, parece ante los ojos de muchos indonesios y observadores exteriores como si el país estuviera condenado a un futuro consistente de sólo *peristiwa* y ningún tipo de orden nunca jamás. La historia se está acelerando con una velocidad que marea a la gente, los retratos presidenciales de ayer tienen que ser reemplazados a intervalos cada vez más cortos, y los niños escolares tienen que aprender los nombres de nuevas provincias –hay en marcha una reestructuración administrativa, con consecuencias para las Molucas y partes de Sumatra- y tienen que olvidarse la de otras (Timor Oriental). El país donde parecía que nunca pasaba nada se ha convertido en un laborioso sitio de construcción, un bullente laboratorio social y político.

El país está hoy en una encrucijada: un lado apunta a las luchas religiosas y étnicas, para la ciénaga de políticas sectarias, guerra civil y empobrecimiento masivo, con consecuencias posiblemente terribles para toda la región, el otro lado apunta al nacimiento de una política que por primera vez mucha gente puede identificar activamente, donde los intereses de la sociedad civil estén reconocidos y representados y donde las instituciones democráticas puedan probar que funcionan mejor que las autocráticas. Los acontecimientos pueden volcar la situación para cualquier lado y actualmente nadie en su sano juicio arriesgaría una clara predicción sobre dónde todo va a acabar exactamente.

Están aquellos que sienten que Indonesia se está convirtiendo en los Balcanes, que su desintegración es inevitable, que seguirá el camino de los imperios desaparecidos en el siglo XX. Como Austria-Hungría después de su derrota en la Primera Guerra Mundial, como el imperio Soviético después de perder la Guerra Fría, Indonesia, dicen, ha perdido una guerra y sufrirá las consecuencias. Ha sido debilitada por la crisis económica asiática y será "liquidada" como imperio por un mundo que está cansado de catástrofes humanitarias y demasiado lleno de polvorines políticos para lo cual Indonesia es un candidato cierto si le es permitido persistir tal como está. Otros cuentan calladamente con los efectos suavizadores que el levantamiento económico de la región de Asia Sudoriental ha desplegado en 1999, esperando que la recuperación de la economía dará al pueblo indonesio una parte en el experimento democrático en que el país está embarcado.

Existen ciertamente signos en ambas direcciones. Entre aquellos que parecen estar apuntando mal tenemos que considerar que los partidos y políticos han descubierto la religión como un tema de agitación (muchos de los partidos contendientes en las elecciones generales de 1999 apelaron a los votantes en base a su afiliación religiosa). Muchos indonesios cristianos e hindu-budistas (y, por lo tanto, muchos pueblos indígenas) tienen sentimientos mezclados sobre la derrota de Golkar, el otrora partido presidencial omnipotente, en las urnas. Aunque corrupto hasta la médula, Golkar para ellos era equivalente a política secular y a la represión del extremismo religioso. Las mayorías de pueblos indígenas como en Kalimantan occidental, central y oriental y Sulawesi votaron por Golkar y perdieron con el partido, y los temores de que con la ascendencia de la cabeza de la hermandad islámica Nadhlatul Ulama, Abdurrrahman Wahid, a la presidencia, los círculos musulmanes podrían ahora procurar abiertamente una agenda islamita y crecer en estas áreas.

Quizá paradójicamente, otra gran preocupación para algunos observadores políticos es el hecho de que Yakarta estaba dispuesta a negociar sobre el destino de Timor Oriental, permitió un referéndum y finalmente fue forzada a abandonar la soberanía sobre el territorio. Ellos argumentan que este acto de gracia –incluso si solucionó una grave violación del derecho internacional- despertó lo que, después de todo, son esperanzas irreales en otras provincias (principalmente Aceh e Irian Jaya, es decir, Papua Occidental). Considerando que los consiguientes llamados por la secesión en regiones y pueblos que se sienten oprimidos por el centro caen en oídos sordos no sólo en el ejército, sino también en el amplio público interno, para el cual, el Presidente Wahid, a diferencia de Suharto, es responsable, el espacio para el compromiso para el nuevo gobierno parece sumamente estrecho. Después de años de brutal represión bajo condiciones de ley marcial, pocas personas en Aceh e incluso menos en Irian estaban dispuestas –al menos durante los primeros meses de la presidencia de Abdurrahman Wahid- a otogar a las ofertas de autonomía de Yakarta ni siquiera una mirada más cercana, y mucho menos una oportunidad. Durante la mayor parte de 1999 parecería que la batalla por los corazones y mentes de los ciudadanos no afectados de estas dos regiones, que el nuevo gobierno está tratando de lanzar, fue perdida antes de empezar y la fe en las instituciones estatales y, mucho más callado, en un ejército no reformado, es muy baja. Con los secesionistas en Nueva Guinea y el norte de Sumatra presionando por la independencia –una campaña no solo agitada por medios simbólicos como el izamiento de banderas de los movimientos independentistas, sino también que implica guerra de guerrillas y asaltos contra la policía

y objetivos militares- el ejército indonesio continuará recurriendo al terror contra la población civil, no importan cuán bien intencionado sea el presidente o el gobierno. Como está tanto en juego por el estado en Aceh e Irian Jaya, y porque habrá mucho menos apoyo internacional por la causa de la independencia allí que en Timor Oriental, está al acecho un derramamiento de sangre y sufrimientos para la población local en una escala aun mayor que la experimentada, con resultados potencialmente desastrosos para la economía indonesia y su imagen externa.

Para parar la marea de la crítica contra la distribución desigual de poderes entre el centro y la periferia y para ayudar la desafección de virtualmente todas las regiones de Indonesia sobre el único camino del flujo de ingresos de las provincias al centro en Yakarta, el parlamento indonesio el 23 de abril de 1999 (todavía bajo Habibie), firmó como ley un proyecto que prometía más poderes de tomas de decisión para los gobiernos provinciales y de distritos. Esta ley, orientada hacia la descentralización administrativa, otorga a las provincias por primera vez la autoridad de elegir parlamentos provinciales y funcionarios locales sin interferencia del gobierno central. Una segunda ley fue aprobada que otorga a los mismos organismos una cantidad limitada de autonomía fiscal y legislativa. Según esa ley que profesa introducir el reparto justo de los recursos naturales y cambiar los poderes impositivos a la regiones, es decir, el 80% de los ingresos forestales y el 14% de los ingresos netos de petróleo permanecerá en las provincias donde han sido generados. Mientras que estas nuevas formas de legislación ciertamente representan un claro rompimiento con el pasado centralista, es más que dudoso de que tengan éxito en amenguar el malestar en aquellas regiones lejanas donde los sentimientos secesionistas están más arraigados. La ley sobre "autonomía regional", como la llamó el parlamento, y la de división de ingresos, son leyes dirigidas a las elites regionales *ya en el poder* que quieren negociar un nuevo arreglo para ellas mismas, no leyes para líderes perseguidos hace mucho tiempo o movimientos disidentes independentistas, o para sus pueblos política y económicamente marginados como un todo.

Por cierto, la presión que resultó en la redacción y aprobación final de las leyes provino principalmente de políticos establecidos – incluyendo gobernadores y jefes locales de partidos políticos del Golkar – y acaudalados empresarios en provincias ricas en recursos pero normalmente no problemáticas como Riau, partes de Sulawesi y Kalimantan oriental. Estos "movimientos de protesta de cuello duro" presionaron al gobierno de Habibie con amenazas de disturbios en caso de que sus demandas no fueran cumplidas y la provincia de

Riau fue incluso tan lejos como para declararse un república independiente a mediados de marzo de 1999. Mientras que tales rebeliones de teatro pueden ser fácilmente sofocadas por una parte del 10 o 15% de los ingresos petroleros, el movimiento por la independencia de amplia base en Aceh y Papua Occidental que siguió floreciendo en décadas de brutal represión militar y una virtual ocupación del ejército, no es probable que comprometan su causa por la promesa de unos cuantos miles de millones de rupias.

Sin embargo, Indonesia no sería el único país del mundo que podría vivir con una o dos insurgencias localmente contenidas. Al no tener más la piedra en el zapato (así es como el ex ministro de relaciones exteriores, Ali Alatas, usaba referirse al problema de Timor Oriental) – no debemos olvidar que Papua Occidental y Aceh son considerados según el derecho internacional, históricamente partes del territorio de Indonesia, no naciones ocupadas como Timor Oriental-, Indonesia podría, si todo lo demás se desarrolla según las líneas más positivas, teóricamente recuperar una medida de estabilidad política y la relativa prosperidad económica que disfrutó antes y dominar el malestar masivo en su centro, Java. Sin embargo, eso es exactamente lo que se debe dudar cuando se consultan las cifras sobre el impacto de la crisis económica que golpeó a Indonesia a mediados de 1997.

Las áreas urbanas sufrieron la peor parte. Ciertamente, toda Java ha sido severamente afectada, ya que la economía de las ciudades de Java y las del interior están estrechamente vinculadas. Durante todo 1997 y 1998 la tasa de inflación estaba oscilando entre el 70 y el 80%, el desempleo era oficialmente del 22% (18 millones de personas), sin embargo, estimaciones no oficiales lo ubican sobre el 50%. Al final de 1998, se estimaba que 90 millones de indonesios –principalmente de Java- vivían bajo el límite de pobreza y al menos 17 millones de familias sufrían de desnutrición aguda. Como consecuencia, surgieron "revueltas de pan", con saqueos masivos durante las manifestaciones en las ciudades, la ocupación de tierras de cultivo y el ataque y saqueo de las casas de comercio del gobierno en el campo javanés y de barcos de pesca en las costas de Java. La preocupación de que el centro ya no resista más, el temor de que el imperio pueda resquebrajarse en sus extremos, es menos aterrante que la perspectiva de que el mismo centro explote en una revuelta y baño de sangre y descienda a una violencia crónica – un acontecimiento no improbable si el gobierno no logra revertir las actuales tendencias económicas. Y con Java en tumulto, toda Indonesia se enfrentará a un pálido y sangriento futuro.

666

Por otro lado, algunos acontecimientos recientes contribuyen a un cauto optimismo con relación al futuro de Indonesia como una nación étnicamente diversa, particularmente como un lugar donde los derechos locales e indígenas estén mejor protegidos. Primero, el nuevo presidente que fue electo en octubre 17 de 1999, puede resultar haber sido la mejor de todas las posibilidades disponibles en ese momento. Abdurrahman Wahid, un académico musulmán ampliamente respetado con un largo registro de moderación religiosa y con antecedentes intelectuales, incluso cosmopolitas, está idealmente posicionado para defender la separación de la mezquita y el estado y doblegar la creciente influencia de un militante islamismo tanto en la población como dentro de las instituciones estatales. A diferencia de Megawati Sukarnoputri, su rival para la presidencia, él es conocido como un hábil táctico y un astuto político y siendo hombre y musulmán, goza de una amplia legitimación en la Indonesia predominantemente musulmana, la cual él puede usar para promover las reformas políticas que prometió. Aunque su discurso de inauguración a veces sostuvo una nota torpemente nacionalista al ubicar la afirmación de la unidad nacionalista en la agenda política – en el mismo tenor, también lamentó la interferencia de naciones extranjeras y sobre todo la de Australia en Timor Oriental, y la "insensibilidad" de otras naciones por el orgullo de Indonesia y la soberanía nacional -, esto no significa necesariamente que durante su gobierno, Indonesia recurrirá sólo (o incluso como primera medida) a la política de mano dura para enfrentar las insurgencias en las regiones.

En realidad, dentro de las tres semanas después de su elección, Wahid lanzó una iniciativa sobre Aceh en el curso de la cual fue tan lejos –el pasado 4 de noviembre- a conceder "en principio" a la demanda de los habitantes de Aceh sobre un referéndum como el que se realizó en Timor Oriental, convirtiéndolo en un territorio independiente, agregando que se debería ofrecer a sus habitantes las mismas opciones que las de Timor Oriental. Esto fue una acción sorprendente, considerando no sólo que Aceh es –a diferencia de Timor Oriental- una provincia muy rica (los ingresos de Aceh por petróleo y gas contribuyen al 11% de los ingresos por concepto las exportaciones totales de Indonesia), sino también porque es ciertamente probable que la "pérdida" de Aceh gatillaría más defecciones del estado indonesio.

Muchos analistas están de acuerdo que una de la principales razones de por qué la mayoría de los habitantes de Aceh, dada la oportunidad, favorecerían la secesión de Indonesia, es el registro desastroso del ejército indonesio en lo que respecta a los derechos humanos durante los 10 años de ocupación militar de facto (la región gozaba de un estatus especial como una *Daerah*

667

Operasi Militer, una zona de operación militar, desde 1989 hasta 1998, un estatus que otorgó a los hombres uniformados libertades casi irrestrictas en su campaña de contrainsurgencia). El 4 de noviembre, el nuevo comandante supremo de las Fuerzas Armadas anunció la retirada de la provincia de toda las fuerzas operativas especiales, las tropas acusadas de las más horribles violaciones de los derechos humanos en Aceh, antes del fin de noviembre. Como otro signo de la buena voluntad de Yakarta, un habitante de Aceh fue nombrado Comandante Supremo Adjunto del ejército. Y en una acción inesperada, el mismo Presidente Wahid a fines de octubre se reunió secretamente con representantes de la guerrilla separatista, la *Gerakan Aceh Merdeka* ("Movimiento por un Aceh Libre"). Tal reunión, y, ciertamente lo que podría ser el comienzo de un proceso prolongado de negociaciones, no hubiese sido posible bajo el Nuevo Orden de Suharto donde las insurgencias separatistas, calificadas como *Gerakan Pengacau Keamanan* (movimientos con la intención de alterar el orden o "movimientos problemáticos") eran la preservación exclusiva de las fuerzas armadas, y se negaba que tenían algún contenido político y que en realidad podían encarar serias dificultades. Desde una perspectiva optimista, puede parecer poco que a primera instancia, los habitantes de Aceh no fueron impresionados por estas nuevas señales de apertura de Yakarta. Lo que importa más es el hecho que la nueva dirección del país está admitiendo que tiene serios problemas con Aceh, y que los problemas necesitan ser resueltos – en lo principal – mediante medios políticos. Ciertamente, las negociaciones con la dirección del GAM que comenzaron a un alto nivel a mediados de marzo del 2000, han producido resultados primarios: el 4 de mayo, los periódicos informaron que el gobierno y el GAM estaban por firmar una tregua militar el 12 de mayo en Ginebra. En realidad, se podría imaginar un escenario mucho más desagradable, donde la dirección indonesia inentase tratar militarmente con los habitantes de Aceh, mientras que el ejército continúa cometiendo graves atrocidades, seguro en el conocimiento de que el prospecto de un Aceh independiente bajo la bandera de un islam militante emplazada en el sumamente importante geo-estratégicamente estrecho de Malakka es una causa de alarma para los gobiernos occidentales.

En el momento de escribir esto, las cosas en Aceh parecen haberse calmado después de que la guerrilla perdió mucha de la buena disposición política y base militar a consecuencia de renovadas ofensivas del ejército en la provincia en enero del 2000, lo cual parece haber producido graves pérdidas en la filas del GAM. Como la fortuna militar se ha volcado, fue cada vez más claro que las expectativas planteadas por los radicales nacionalistas de Aceh relativas al inminente despertar de la democracia eran exageradas. El aire de

optimismo y "revolución" que pendía en las calles de la capital de Banda Aceh y los pequeños pueblos de la provincia durante y después de los acontecimientos que condujeron a la separación de Timor Oriental de Indonesia, ha sido reemplazado por la resignación y una creciente consciencia de una guerra que el GAM dice al pueblo de Aceh que tiene que atravesar si quiere la soberanía.

Apenas hace siete meses, el 8 de noviembre de 1999, 500.000 personas (un cuarto de la población total de la provincia) habían tomado las calles de Banda Aceh, la capital provincial, para protestar sobre la "violación de su derecho incondicional a un referéndum" porque Wahid se había negado a indicar cuándo tendría lugar el referéndum. Una huelga general convocada por el movimiento secesionista en agosto había sido obedecida abrumadoramente, convirtiéndola en la mayor de tales movilizaciones en Indonesia desde mediados de los años 60. La frustración llegó a su cima el 17 de noviembre cuando el presidente se retractó de su oferta anterior, declarando que la independencia nunca había estado en el menú. Sin embargo, declaró que la provincia, si acordara con su idea de autonomía, podría retener no menos que el 75% de sus ingresos de petróleo e introducir la ley islámica, un deseo de larga data del movimiento independentista. El ejército, por su parte, no perdió tiempo en declarar el 8 de noviembre que un referéndum en Aceh violaría la constitución y el parlamento siguió con declaraciones similares.

Se hizo mucho más evidente que el presidente sólo había jugado por un poco de tiempo cuando había insinuado que Aceh, si sus ciudadanos así lo decidieran, podría seguir el camino de Timor Oriental en independizarse. Abdurrahman Wahid y su gobierno pueden haber ganado sobre posibles simpatizantes de soluciones radicales en la provincia, sosteniendo otras promesas que habían hecho, especialmente que ordenaría investigaciones sobre las violaciones de derechos humanos perpetradas por el ejército contra civiles de Aceh y llevar a aquellos hallados culpables ante la justicia. Su entonces ministro de defensa, General Wiranto, tenía que responder a acusaciones de haber autorizado el terror militar en Aceh bajo su término como supremo comandante del ejército, el pasado noviembre ante una comisión de derechos humanos del parlamento y fue luego expulsado por el presidente en base a acusaciones similares en lo relativo a su papel en la violencia en los antecedentes y las consecuencias del referéndum en Timor Oriental.

Las oportunidades de un arreglo negociado del conflicto en el punto más septentrional de Sumatra parece, en el momento de escribir esto, estar intacto. Aunque comandantes incontrolables del ejército puedan de hecho en cualquier momento avergonzar al gobierno central mediante el nuevo

669

derramamiento de sangre en Aceh en la esperanza de desviar el proceso de paz y debilitar al presidente, el último ha ganado mucha credibilidad por contener a los militares y hacer todo lo posible en su poder para llevar a esos oficiales de alto rango ante la justicia por la atrocidades cometidas bajo su comando. Tal desarrollo sentaría un precedente beneficioso para una nueva manera de encarar otras insurgencias regionales de Indonesia, especialmente la de Papua Occidental. Mientras que la forma de establecer la supremacía civil sobre la militar y reacondicionar el establecimiento centralista de la República Indonesia todavía es distante y plena de incertidumbres, el gobierno de Wahid merece crédito por restaurar al menos algo del capital político necesario para mantener las más extravagantes de las fantasías de los pueblos de las regiones lejanas de Indonesia aseguradas.

Una segunda razón para el optimismo (si, en realidad la primera mencionada califica como tal) proviene del hecho de que la crisis económica tuvo graves impactos en algunas partes de país, pero no en otras. No ha sido totalmente comprehensiva o tan devastante como algunos de los primeros informes querían que creyéramos. La subsistencia de muchos pueblos indígenas en la mayoría de las áreas no sufrieron mucho de los impactos de la fundición del sector económico moderno (como la banca, seguros, producción industrial, y muchas empresas de clase media en los pueblos y ciudades), y en algunas regiones, las economías indígenas, en realidad, han prosperado. Mientras que hambrunas relacionadas con la sequía (o relacionadas con incendios forestales, respectivamente) han sido informadas en 1997 y 1998 de partes de Irian Jaya y Kalimantan Oriental, en la ausencia de tales desastres, partes de Indonesia Oriental (incluyendo Nusa Tenggara y Maluku) han estado, y están, relativamente bien, como resultado del "boom" del cacao y copra y el fin del monopolio de Tommy Soeharto del comercio del clavo de olor (Forrester 1999: 16) Para las economías de muchas regiones con poblaciones indígenas, la devaluación de la rupia ha sido bendecida, ya que condujo a un abrupto incremento de las exportaciones y en ganancias netas de los cultivos comerciales, como la pimienta y el cacao, de pescado y gambas. Esto ha sido el caso en muchas parte de Sumatra y Sulawesi, donde la gente en realidad está feliz que la *krisis moneter* (crisis monetaria, abreviada como "Krismon") ocurrió y quieren que continúe. Esta ventaja económica comparativa de las islas más lejanas, comparadas con Java, puede en el período corto y medio eliminar al menos las tensiones en las regiones al nivel micro-económico y compensar a los pueblos de la periferia por algunas de las injusticias políticas y sociales que probablemente volverán a sufrir al menos durante algún tiempo

en manos del centro. Si estas tendencias económicas en las islas exteriores continúan, la mezcla combustible de las frustraciones económicas y políticas que se han acumulado allí, pueden, al menos por el momento, haberse convertido en un poco menos peligrosas.

Sin duda, Indonesia pos-Suharto es un lugar entreverado, confuso, con todo tipo de gente. Dos años después de la expulsión de Suharto, se estima que 1.500 o 2.000 personas han muerto en violencia comunal en al menos una media docena de lugares en el archipiélago. La penetrante despolitización de la sociedad indonesia configurada por Suharto y la eliminación de los canales institucionales para encarar las disputas comunales bajo su régimen, están ahora asegurando que tales fricciones tomen la forma de una acción sin compromisos, de asesinatos callejeros. Es muy frecuente que las diferencias religiosas separen a los grupos antagonistas, dando a los choque una calidad particularmente cruel y sin misericordia. Cuando tal "tribalismo" primordial muestra su cara fea, hemos aprendido, que las divisiones son inabordables y los problemas desafían las soluciones. Sin embargo, una mirada más próxima a algunos de los casos presumiblemente "religiosos" de violencia revelarán que asuntos más mundanos, no la religión, están en el corazón del problema y las soluciones prácticas políticas pueden, por lo tanto, ser halladas para encontrar un remedio al problema. El punto concluyente aquí es que la visión de acuerdo por la cual el colapso del régimen autoritario sobre la multiplicidad de asuntos étnicos y religiosos grupales en realidad despierta energías destructiva "primordiales", es simplemente equivocada. Puede ser verdad que a veces "buenos cercos hacen buenos vecinos", pero no existe una ley natural que diga que la vecindad sin cercos automática e inevitablemente se convertirá en una campo de batalla sangriento. Un breve, concluyente análisis del malestar que ha comenzado en la isla de Ambon y las Molucas el pasado enero de 1999, subrayará este punto y quizá nos puede ayudara ver a Indonesia en una luz menos oscura, menos medioeval.

La isla de Ambon, hace medio siglo predominantemente cristiana, durante las pasadas décadas ha contemplado un aflujo de inmigrantes musulmanes, tanto de dentro y fuera de las Molucas (en realidad, en contra de la percepción exterior, muchas de las islas Molucas han tradicionalmente tenido fuertes mayorías musulmanas). La conversión al islam ha cambiado aun más el equilibrio. Una fuerte elite local de Ambon ecualiza ser ambonés con ser cristiano, pero una reciente cifra poblacional muestra estratégicamente que esto ya no es verdad. Los musulmanes disfrutan ahora de una pequeña mayoría en Ambon y desde 1992 tienen una gobernador musulmán, un convertido de una prestigiosa familia ambonesa. Ahora, la población urbana de Ambon – y el pobla-

do es donde comenzó la intranquilidad y sucedieron las primera matanzas- es muy dependiente del empleo directo e indirecto de servicio civil: más de un cuarto de la población urbana encuentra empleo bien directa o indirectamente en la administración y hace trabajos contratados por el gobierno. Para obtener el dinero y los trabajos gubernamentales, se necesitan conexiones – y ahí es donde se introduce la afiliación religiosa.

La gene frecuentemente se identifica con una comunidad religiosa por razones bastante mundanas. En Ambon, al menos, el unirse con la comunidad protestante musulmana significa ser parte de una red que solamente adora a Dios de una cierta manera, pero hace cosas prácticas para sus miembros – provee amigos activos en lugares poderosos, por ejemplo, o protección cuando las cosas se ponen dificultosas. Esta red se extiende a círculos influyentes en Yakarta. Y se extiende hacia abajo a nivel de calle donde bandas de jóvenes brindan lo que una policía ineficiente no puede proveer. Ahora, las bullentes tensiones entre la elite cristiana y sus desafiantes musulmanes aumentó significativamente cuando el gobernador musulmán a fines del año pasado nombró a compañeros musulmanes al puesto de gobernador adjunto y secretario provincial, las dos posiciones más requeridas aparte de la gobernación, después comenzaron a circular rumores que decían que el gobernador estaba a punto de reemplazar a 38 funcionarios civiles de alta categoría, todos cristianos, por musulmanes. Esto es efectivamente cuando las familias disgustadas de Ambon, lideradas por el principal rival político del gobernador, decidieron que tenían que actuar.

Hace mucho tiempo que es un secreto a voces que el doble perdedor en la carrera gubernamental de la facción cristiana tenía vinculaciones con ciertas figuras del bajo mundo criminal, no sólo en Ambon, sino en Yakarta. Las bandas Molucas que operan en la capital tienen todas una más o menos identidad religiosa – algunas cristianas otras musulmanas. P. ej., las bandas cristianas ambonesas controlan los "shoppings", el aparcamiento y el juego en el noroeste de Yakarta. El problema en Ambon comienza poco después de que 200 miembros de una banda cristiana se retiró de Ambon después de haber perdido una guerra de tierras de bandas en el hipódromo de Ketapang, Yakarta, a fines de 1998. Bajo invitación de gente cercana al rival del gobernador los delincuentes cristianos comenzaron a realizar reuniones en los patios de las iglesias ambonesas, movilizando hacia el conflicto con los musulmanes locales. Mientras tanto, las bandas musulmanas rivales de juntaron en una importante mezquita de la ciudad. Ambos prepararon planes para la contingencia de un ataque del otro lado. Cuando ocurrió un incidente trivial en la terminal

de ómnibus de la ciudad, se pasó la palabra de que el enfrentamiento final había comenzado.

De aquí en adelante, los acontecimientos escalaron ya que cada parte creía su propia versión de los eventos. Los musulmanes hablaban de detener la "avanzada de la cristianización". Los cristianos hablaban del "fanatismo" islámico en Yakarta y de una zelotría musulmana en la política nacional, mientras que algunos hablaban nostálgicamente de la República de Maluku del Sur, dominada por los cristianos, que duró de 1949 a 1950. Con la matanza de gente del interior o de otras islas Molucas en el curso de los choques en la ciudad de Ambon, se expandió una violencia tipo "vendetta" a muchas partes del archipiélago, resultando en una cifra general de muertes de varios cientos de personas entre enero y abril de 1999 y docenas más cuando la lucha se desató de nuevo entre mitad de julio y comienzos de agosto.

Si se va a creer en esta versión de los eventos, la rivalidad de las elites en vez del sectarismo religioso está en el centro del problema de Ambon, con los principales jugadores motivados por ganancias materiales y la defensa o la conquista de puestos políticos o privilegios. Los opositores nos son masas amorfas de creyentes irracionales y suicidas, sino redes claramente estructuradas con aspirantes o gobernadores en oficio cerca de lo más alto, seguidos por agitadores locales con conexiones con el bajo mundo dentro y fuera de la región. Claramente, la solución de la violencia fratricida en esta parte del archipiélago no yace tanto en un diálogo ecuménico o en convertir en ilegal a ciertas expresiones de identificación religiosa, sino en reformar el gobierno en general y abolir las políticas de favoritismo provincial en particular.

Para mayor información sobre Papua Occidental vea la sección sobre el Pacífico.

MALAISIA

Los Orang asli de Malaisia Peninsular

La expulsión del Primer Ministro Adjunto, Anwar Ibrahim, en septiembre de 1998, condujo a una cadena de eventos que cambiarían la estructura política de Malaisia – y particularmente, malaya. Las elecciones generales se celebrarían en abril del 2000. Sin embargo, desde el derrocamiento del ex Primer Ministro Adjunto y la resultante crisis política dentro de UMNO, la especulación general era que las elecciones serían celebradas pronto – ya que se sentía

673

que el Primer Ministro querría disminuir los impactos del fortalecimiento de la oposición política y el probable decaimiento aun mayor de la economía. Las elecciones fueron finalmente celebradas el 29 de noviembre de 1999, en medio de un período de flujo político en el país, al menos en lo que respecta al soporte malayo a la coalición gobernante y al Primer Ministro Mahathir Mohamed.

La turbulencia política causó que muchos miembros del UMNO (el partido malayo dominante en la coalición de gobierno) dejaran el partido para unirse a la oposición. También se contempló el establecimiento de un nuevo partido malayo multiétnico, Parti Keadilan Negara (ADIL), el Partido Nacional por la Justicia. Lo que es más importante, se vio a los partidos de oposición cerrando las filas y uniéndose bajo una coalición llamada el *Barisan Alternatif* o Frente Alternativo. Para UMNO y su Presidente (quien es también el Primer Ministro), esto significó que no podían ya depender de los votos de un gran segmento de la comunidad malaya que eran tradicionalmente partidarios seguros de UMNO y la coalición de gobierno. Por lo tanto, los votos de los no-malayos eran cruciales para la supervivencia política de UMNO y el Frente Nacional. Esto significó que los votantes *orang asli* tendrían que ser agitados otra vez, siendo su apoyo vital de nuevo en su rol de peones en el ajedrez político malayo.

Tan pronto como en enero de 1999, los orang asli comenzaron a ser el centro de atención cuando el Ministerio de Unidad Nacional y Bienestar Social, el ministerio responsable de asuntos orang asli, reveló que no había planes para implementar varias actividades generadoras de ingreso para los orang asli ese año (*New Straits Times* 11.1.1999). Y, dado que el tema de los derechos territoriales y a la propiedad de los orang asli eran todavía el principal interés de muchos orang asli, los líderes del gobierno comenzaron otra vez a reiterar su compromiso para resolver el tema. Citando cifras que han visto poco cambio durante las pasadas tres décadas, el Ministro a cargo de Asuntos Orang Asli, Zaleha Ismaik, exhortó a los gobiernos estatales a apresurar el registro de la tierra orang asli (*The Sun* 8.4.1999). Citando las mismas cifras, pero interpretándolas sospechosamente como algo nuevo, el Primer Ministro de Finanzas, Daim Zainuddin anunció que "grandes áreas de tierra orang asli van a ser registradas (*New Straits Times* 10.5.1999, *Berita Harian* 10.5.1999).

El 22 de junio, manteniendo la tradición de un año electoral, el Primer Ministro ofició una gran reunión orang asli en Bukit Lanjan, en las afueras de Kuala Lumpur. Unos 600 jefes de aldeas orang asli fueron conducidos en autobuses desde toda la Península, para testimoniar ostensiblemente una fun-

674

ción de un constructor privado o sea el premio de certificados en una competencia de construcción a 17 jóvenes orang asli que habían completado la capacitación en operaciones de albañilería. El establecimiento del instituto de capacitación (en el lugar de construcción) fue parte del paquete de compensación para los orang asli cuando su tierra fue adquirida por el estado y luego vendida a un urbanista privado.

El discurso del Primer Ministro, en realidad, fue bien recibido por los invitados orang asli especialmente cuando les aseguró que el gobierno quería mejorar su nivel de vida "sin cambiar su cultura y tradición ... como tener un *Tok batin* como su líder" (*New Straits Times* 23.6.1999, *The Star* 23.6.1999). También subrayó como los orang asli eran bien cuidados por el gobierno, citando el caso de Bukit Lanjan, desde donde habló, donde la reubicación de 158 familias *temuan*, alegó, pronto los convertiría en millonarios (*The Sun* 23.6.1999). Sin embargo, nadie cuestionó cómo el programa de compensación de RM61 millones (US$ 16,04) (que incluía compensación en especie) para las 158 familias podía convertirlos a ellos millonarios individualmente o como familia.

No obstante, el Primer Ministro continuó con su arrogancia y asumió magnanimidad cuando declaró que, "No existe otro país donde sus pueblos aborígenes se conviertan en millonarios", agregando que, "En el oeste, son acumulados en reservas y se les enseña a emborrachase" (*The Star* 23.6.1999).

Sin embargo, en lo que concierne a los medios de prensa antes de las elecciones generales, en el estado de Kelantan, en particular, los orang asli se convirtieron en un centro de atención. Esto no era inusual ya que el Barisan Nasional quería desplazar al partido de oposición Partido Islámico (PAS) de su control del estado. Por lo tanto, tan temprano como en febrero de 1999, el Ministerio de Desarrollo Rural anunció que había aprobado RM20 millones (US$5, 3 millones) para proyectos "para mejorar las condiciones de vida de los orang asli" en dos poblados en Gua Musang (*New Straits Times* 19.2.1999, 22.2.1999). Los proyectos incluían la ampliación de la ruta de cemento existente, mejora del suministro de agua y electricidad, la construcción de un puente y la compra de un bote para transportar a los niños a la escuela.

En agosto, en una función especial para la comunidad orang asli en Kelantan, el presidente del comité de relaciones de UMNO estatal, Tengku Razaleigh, dijo a los orang asli que sus condiciones de vida y subsistencia serían mejores bajo un gobierno estatal del Frente Nacional que también tomaría medidas para superar a los problemas concernientes a la comunidad orang asli, incluyendo asuntos relativos al registro de las reservas orang asli

(*New Straits Times* 4.8.1999). En la misma función, Tengku Razaleigh, en su llamado a los orang asli a ayudar a ganar al Frente Nacional en las próximas elecciones generales, también alegó que varias áreas de reserva de tierras orang asli habían sido invadidas por algunos elementos, incluyendo agencias gubernamentales, para la explotación maderera y otras actividades.

"Los orang asli tienen que enfrentar ahora una vida difícil. Se les roba su fuente de ingreso cuando otras personas invaden sus tierras y roban el ratán. Incluso su suministro de agua ya no es limpio debido a la explotación maderera excesiva que es permitida por el gobierno estatal en el bosque de Kelantan", agregó el miembro del Parlamento por Gua Musang, intentando obviamente ganarse el favor de los orang asli, echándole todas las culpas a los sufrimientos de los orang asli de Kelantan a su aliado de otrora, y ahora opositor político, el gobierno del PAS. Varios líderes gubernamentales realizaron pronunciamientos similares para ganarse el voto de los orang asli, especialmente después de que las elecciones generales fueron finalmente fijadas para el 29 de noviembre de 1999.

Sin embargo, los votos orang asli hicieron una diferencia en el escaño parlamentario de Pekan en Pahang donde el Najib Tub Razak, sustentado por el Barisan Nasional, quien también es el Ministro de Educación obtuvo solamente 241 votos. Aquí es claro que, aunque los votantes orang asli eran sólo el 6,5 por ciento (2.429) de los 35.832 votantes registrados en el electorado, su voto fue fundamental para asegurar una victoria para el partido gobernante.

Y aunque los orang asli generalmente votaron por el Frente Nacional en esta elección, sus votos marcaron una diferencia para la oposición en al menos un distrito electoral. Este fue el escaño estatal de Chini, en Pahang, donde el voto de la mayoría (malaya) estuvo dividido. Aquí, el representante del Frente Nacional perdió por apenas 5 (sí, cinco) votos.

Aunque los votantes orang asli constituían aquí apenas el 5 por ciento de los 11.168 votantes registrados, sus 558 votos, aunque pocos en términos absolutos, fueron, no obstante, cruciales en tal situación. Tal como fue el resultado, la derrota del Frente Nacional en este escaño estatal fue atribuida al fracaso de sus trabajadores partidarios para proveer medios adecuados de transporte al lugar de votación para 80 orang asli de un poblado. Se envió un camión, el cual los votantes orang asli rechazaron. Solicitaron otros vehículos pero les fue negado y como resultado los orang asli decidieron no votar. Esto le costó el escaño al Frente Nacional.

En realidad, un mes después de las elecciones generales, un orang asli del área, bajo el seudónimo de "*Ingin Pembanguna*"' (Deseando el Desarrollo), exhortó al gobierno del Frente Nacional a aprender las lecciones de las pasadas elecciones, especialmente en su circuito electoral (*Utusan Malaysia* 5.1.2000). A pesar de haber votado por la coalición gobernante en las elecciones pasadas, escribió, no había nada para mostrar en términos de desarrollo para la comunidad – nada de electricidad, nada de agua corriente, y ningún proyecto de desarrollo agrícola. Los orang asli no son una mayoría aquí, recordó, pero cada uno de sus votos igual contaban.

Esta recordación parece haber sido acusada por el partido gobernante porque, en marzo del 2000, cuando se llamó a una elección para el escaño del estado de Sanggang en Pahang, no se escatimó ningún esfuerzo para ganar el voto orang asli. Aunque los votantes orang asli sumaban apenas el 1,4 por ciento de los 15.276 votantes del circuito electoral, ninguno de sus 217 votos fue tomado por asegurado.

Por lo tanto, durante la campaña, se hicieron los anuncios usuales de proyectos de desarrollo y ayuda, incluyendo una adjudicación de RM10 millones (US$2,63 millones) del estado para "proyectos de desarrollo" y otros RM50 millones (US$13,2 millones) que son procurados por el Gobierno Federal (*New Straits Times* 17.3.2000, *Berita Harian* 17.3.2000). En realidad, el ministro estatal para asuntos orang asli y su equipo habían literalmente acampado en las dos aldeas orang asli en forma rotativa durante el período de la campaña y realizaron un "itinerario intenso, de fantochada para los divertidos aldeanos" (*New Straits Times* 25.3.2000). Esto abarcó desde *gotong-royongs* (programas de limpieza de autoayuda) y competencias televisivas nocturnas al aire libre, pasando películas hindi y espectáculos de karaoke, entremezclados con discursos políticos y repletos de bebidas alcohólicas.

Por lo tanto, claramente, debido en parte al escenario político cambiado en lo que respecta a la política malaya, el voto orang asli ha devenido importante una vez más – lo suficientemente importante para hacer que aquellos que desean sus votos comprendan que los orang asli han sido dejados de lado en el camino del desarrollo del país y que es tiempo de compensarlo.

Las elecciones generales de 1999 también contemplaron una nueva fase del activismo político orang asli – directa participación en la política electoral. En el transcurso de los años, los líderes orang asli, especialmente aquellos de la Asociación Orang Asli de Malaisia Peninsular, POASM, han abogado por la necesidad de participar en el escenario político si es que van a ser oídos y reconocidos. Frecuentemente, se ha apelado para que el mismo POASM se

convierta en un partido político, llamado *Parti Orang Asli* (POA). Para septiembre de 1999 se presentó la solicitud formal en el Registro de Sociedades y no fue un secreto de que unos pocos líderes claves del POASM estaban detrás de esta iniciativa.

Según Majid Suhut, *"El establecimiento de un partido orang asli es ahora sumamente apropiado para salvaguardar los intereses de los orang asli ... tal como otros grupos minoritarios de Malasia lo han hecho"* (*Berita Harian* 31.8.1999). Agregó que era el momento para que los orang asli dependieran de su propio partido y no del de otra comunidad.

No obstante, cuando las elecciones generales fueron finalmente fijadas para el 29 de noviembre de 1999, la solicitud del partido todavía no había sido aprobada. Fue entonces que un pequeño grupo de líderes del POASM decidió postular candidatos independientes orang asli para competir por el escaño estatal de Pahang de N" Jelai (donde el 38,8 por ciento de los 8.995 votantes eran orang asli). El escaño estatal acordaba a un candidato orang asli una oportunidad real de ganar (siempre y cuando pudieran obtener todos los votos orang asli) ya que el escenario político del país en ese entonces era tal que los candidatos del Frente Nacional tenían asegurados fuertes desafíos de los candidatos de la oposición, el Frente Alternativo. Norya Abas, un administrador de plantación *semelai* de Tasek Bera, compitió por el escaño estatal y esto fue suficiente para hacer que el candidato, asambleísta del estado, se pusiera visiblemente ansioso.

El escaño del estado de Jelai cubría a las comunidades *semai* en el Proyecto de Reagrupamiento Betau así como las aisladas comunidades selai en las montañas interiores de Pahang, la mayoría de las cuales eran sólo accesibles a pie o en vehículos de doble tracción. Por lo tanto, la campaña fue una tarea "empinada" para el candidato orang asli.

La campaña de Norya se basó en el argumento de que los orang asli tenían necesidad de tener su propio representante electo en el gobierno. A pesar de disponer de suficiente información para desacreditar la reputación del otro candidato, el equipo optó por hacer la campaña basándose solamente en su habilidad para persuadir a los votantes orang asli a que aceptaran el llamado por una representación política orang asli. Tal apelación directa a los sentimientos orang asli tuvo éxito en cambiar su apoyo hacia el candidato orang asli, aunque el proceso fue muy lento y consumidor de energía. No se hicieron promesas de llevar el desarrollo al área. Tampoco los votantes pidieron esto al candidato.

Los avances realizados por la campaña de Norya causaron mucha preocupación al otro candidato, un miembro de la asamblea durante tres términos

678

perteneciente al UMNO, el partido mayoritario del Frente Nacional gobernante. Se puso entonces en acción una contra campaña por parte del equipo del candidato opositor, implicando la distribución de generosidad financiera y material. No obstante, los orang asli asumieron todas estas tácticas electorales usuales para ganar votos en su lucha y fueron complacientes en aceptar todos los beneficios que se les ofrecieron pero sin revelar su opción de candidato.

La campaña del opositor entonces asumió otra estrategia, empleando a agentes electorales orang asli del área sí como a personalidades radiales orang asli y al senador orang asli. A los votantes orang asli se les dijo no votar por el candidato independiente orang asli porque él no era del mismo subgrupo étnico y no residía en el área. Hubo incluso sugerencias de que el candidato orang asli, a partir de su nombre, era musulmán y entonces sospechoso de su participación en las elecciones. (Esto se dijo a pesar de que el candidato oficial no era un orang asli él mismo).

La campaña oficial fue lo suficientemente inteligente para no confiar en los agentes electorales malayos, conociendo totalmente bien las relaciones locales de los orang asli con ellos. En cambio, los líderes orang asli locales, incluyendo aquellos que trabajan para el Departamento de Asuntos Orang Asli, fueron usados efectivamente para hacer campaña por el candidato oficial.

Por lo tanto, no es de sorprender que los avances hechos por el candidato independiente orang asli comenzaron rápidamente a disminuir en las 48 horas finales de la campaña cuando se realizaron visitas de último momento por parte de los agentes electorales del candidato oficial para tratar de cambiar el voto. La campaña del candidato oficial también logró alguna ayuda de una fuente inesperada – los misioneros cristianos no-orang asli. En un poblado, en Ulu Betau, aunque el equipo del candidato independiente orang asli fue recibido calurosamente en la primera visita, su recepción fue la opuesta en su segunda visita – hasta la medida en que las pancartas del candidato independiente fueron tiradas abajo y arrojadas en frente de ellos. El cambio en el apoyo del candidato independiente de los orang asli llegó fundamentalmente después de que los misioneros cristianos habían sugerido a los aldeanos que votar por un candidato independiente significaba votar por el Frente Alternativo. Y con el partido Islámico, PAS (con su objetivo declarado de establecer un estado islámico) siendo un miembro importante de la coalición de oposición, no había nada que les impidiera, si el Frente Alternativo llegaba al poder, a embarcarse en un programa para convertir a los orang asli al islam.

679

El involucramiento personal del Sultán de Pahang en el despliegue de su endoso al candidato oficial fue también fundamental en volcar los votos de vuelta al mismo. La decisión del Sultán de "*turung padang*" (lit. "volver al campo") en el Proyecto de Reagrupamiento Betaur durante las horas de clausura del período de campaña cambió sin dudas la intención de los votantes de allí, especialmente ya que los orang asli tienen un lugar especial por él en su corazón.

No obstante, la participación orang asli en las elecciones generales fue muy baja, promediando un 42,2 por ciento, aunque las poblaciones del interior participaron solamente en un 30 por ciento de los votantes. La baja participación en las áreas lejanas fueron atribuidas a la difícil situación económica de los orang asli. "Ellos no tienen lo suficiente para comer", dijo un funcionario público, explicando por qué los votantes orang asli no estaban dispuestos a perder un día de trabajo de subsistencia para votar en un centro de votación a muchas horas de distancia de caminata. En comparación, la participación de los votantes no-orang asli en el circuito electoral fue del 77,4 por ciento.

No obstante, la cantidad de votos acumulados por el candidato independiente orang asli fue de solamente 141, causándole perder su depósito. Mientras que esto parece sugerir que los orang asli están divididos en la necesidad y ritmo, para procurar una representación política a través del proceso electoral, debería destacarse que esta particular irrupción en la política electoral no careció de sus desventajas constitutivas. Dejando de lado el hecho de que el candidato independiente orang asli competía contra un candidato oficial que tenía una maquinaria bien aceitada así como acceso a muchos recursos financieros y humanos, fue quizá imprudente haber presumido, en primer lugar, que los orang asli votarían naturalmente por un candidato orang asli, o por cualquier candidato, en lo que a eso respecta.

Además, el corto período de campaña no permitió a un equipo carente de dinero y privado de recursos realizar efectivamente una campaña en todas las áreas orang asli. Varios poblados no fueron visitados directamente por el candidato o su equipo sino que en cambio confiaron demasiado en agentes electorales jóvenes, reclutados rápidamente (o más bien "mensajeros") que no eran capaces de articular adecuadamente los temas.

No hubo ningún trabajo de base previo para familiarizar a los votantes con el candidato y la candidatura. El hecho de que el candidato fuera un "*calun terjun*" (candidato paracaidista) funcionó para su desventaja, especialmente porque no era ni del área ni del mismo grupo de lengua. La "secrecía" que rodeaba la candidatura hasta unos pocos días antes de que las nominaciones fueran llamadas, ta [illegible] del

POASM sobre todo el proceso, incluyendo la elección de candidato (quien incidentalmente, no era activo en POASM ni conocido ampliamente para los otros líderes orang asli).

No obstante, considerando todas las cosas, la candidatura orang asli fue una importante experiencia de aprendizaje para los orang asli. Y si vamos a identificar algo positivo como resultado, debe ser el impacto que hizo en los personajes políticos del país. Seguramente, el voto orang asli ya no será tomado como garantizado. Claramente en respuesta al susto que la candidatura independiente orang asli dio al Frente Nacional, el Ministro en Jefe de Pahang anunció apenas después de las elecciones generales que serían nombrados cuatro funcionarios especiales para informar directamente a él sobre temas relativos a las comunidades islámicas, chinas, indias y orang asli (*New Sunday Times* 12.12.1999, *Sunday Star* 12.12.1999).

Pero quizá lo más importante para los mismos orang asli, es que este intento de introducirse en la política electoral ha sido una educación en sí misma para ellos. Para empezar, aunque es evidente de que los individuos orang asli a nivel local son más receptivos a la idea de una participación política directa, esta idea no parece funcionar tan bien con los orang asli más educados. El fuerte vínculo al *status quo* y a los intereses personales han sido sugeridos diversamente como razones políticas del por qué estos orang asli no están dispuestos a sustentar abiertamente una causa orang asli. Como tal, puede ser necesario para los orang asli volver a evaluar la naturaleza y ámbito de sus aspiraciones políticas u objetivos.

En una nota más positiva para los orang asli para el año actual, hubo una victoria significativa en que en marzo del 2000, la Corte Federal –la última instancia en el proceso de apelación- sentenció en favor de los orang asli en el caso de la Represa Linggiu en Johor (*Adong Kuwau & Ors v Kerajaan Negeri Johor y Anor).* Los orang asli habían demandado al gobierno por pérdida de ingresos y medios de subsistencia como resultado de la construcción de una represa en sus tierras tradicionales para suministrar agua a Singapur. El gobierno estatal había sentenciado que la tierra en cuestión pertenecía al estado y que los orang asli no tenían derecho a la misma. Sin embargo, la Suprema Corte sentenció que, aunque los orang asli pudieran no haber poseído la tierra, ellos tenían derechos consuetudinarios a su uso y entonces otorgó a la comunidad RM26,5 millones (US$6,6 millones) por pérdidas de ingreso durante un período de 25 años. Este caso es proclive a promover otros casos que están argumentando una demanda pura de derechos territoriales y no solamente de derechos usufructuarios.

631

Sabah

En Sabah, entre los temas que pasaron al frente en el período 1999-2000 están las novenas elecciones del Estado de Sabah y los esfuerzos realizados por el gobierno hacia un bosque sustentablemente manejado. Este artículo también pondrá atención a las mujeres y su lucha continua para fortalecer sus organizaciones.

Política: ¿El fin de los partidos multiétnicos?

Las elecciones estatales de marzo de 1999 comprobaron la existencia de 3 partidos políticos – el Frente Nacional (BN), el Partido Unido de Sabah (PBS) y el recién formado Partido del Frente Popular de Sabah (Bersekutu) – luchando por todos los 48 escaños de la asamblea estatal. Los temas de la campaña política de BN se centraron en sus logros desarrollistas y que la posición de la oposición del PBS de "proteger los derechos de Sabah" sólo contribuiría al empeoramiento de la situación económica y la inestabilidad política. Sin embargo, ni una vez los partidos encararon temas reales de las comunidades indígenas, que cuentan con 1,4 millones de personas (el 74% de la población de Sabah) como los derechos a la tierra, el reconocimiento de la identidad indígena y el derecho a determinar qué tipo de desarrollo es beneficioso para el pueblo como un todo.

Los resultados salieron casi como planeados – el BN ganó 31 escaños y el PBS 17 – perpetuando la desilusión en el sistema electoral. PBS culpó a tácticas de escasez, dinero electoral, transferencia de votantes y el otorgamiento de cédulas de identidad a personas no ciudadanas (estimadas en 800.000) – dándoles, por lo tanto, el derecho a votar- como las principales razones de su derrota. Un factor muy preocupante es el continuo delineamiento de los límites electorales, los cuales sólo amplían la división étnica y religiosa. Los límites han sido cambiados para reducir aun más la cantidad de los distritos electorales para los indígenas no-musulmanes *bumiputras*) predominantemente *bajaus*, *malayos de Brunei*, *irranuns*, *suluk* y *bugis*) resultando en una mayoría musulmana bumiputra, 12 no-bumiputra escaños mayoritarios, 7 escaños mayoritarios chinos y 3 "escaños" mezclados. La tendencia de las elecciones ha demostrado un consistente apoyo al PBS de los grupos indígenas *dusun*, *murut* y *paitanic*, (también llamados bumiputras "no-musulmanes"). El BPS, que gobernó Sabah desde 1985 a1994, también ganó las elecciones estatales con una simple mayoría pero varias defecciones de miembros de la Asamblea al BN, y la ley contra-la-esperanza, le negó a continuar gobernando Sabah.

El esfuerzo supremo del gobierno federal en la reciente campaña aseguró que la Organización Nacional Malaya Unida (UMNO) – el partido dominan-

682

te del oeste de Malasia – ganara todos los 24 escaños disputados como parte del BN. Esto es considerado increíble considerando los fuertes sentimientos de los habitantes de Sabah sobre los partidos malayos occidentales y el apoyo del PBS en algunos de los circuitos electorales. Aunque UMNO presentó esto ante la percepción popular, no obstante, ha echado mucha duda sobre el sistema electoral.

No mucho después de las elecciones Estatales, el Parti Demokratik Sabah (PDS), el principal partido componente con bumiputra del BN sede en Sabah lanzó una nueva imagen basada en un antiguo nombre del partido la Organización Unida Pasok Momgun Kadazndusun (UPKO). La acción fue hecha para consolidar a las comunidades indígenas no-musulmanes, ya que creían que los partidos multiétnicos ya no pueden lograr un apoyo suficiente para formar el gobierno. Con los partidos chinos, el actual gobierno está constituido una coalición de 3 partidos con base étnica.

A pesar de sus problemas, se creía que los partidos multiétnicos que habían gobernado durante dos décadas habrían sido una mejor elección en Sabah. Como fue expresado por un analista político " ... a pesar del sistema de rotación del puesto del primer ministro, la retórica de compartir el poder y gobernar por consenso, UMNO, en los hechos, domina los otros partidos de la coalición de Sabah". A nivel del gobierno federal, la lucha por el control entre los miembros en el BN y el invariable dominio de UMNO en la coalición siempre ha sido un reconocimiento de un tema silencioso, pero explosivo. Teniendo en cuenta tal modelo debería haber sido una lección para los habitantes de Sabah para observar.

Bosques y manejo ambiental

En un intento de cumplir con las directivas de ITTO sobre el usufructo sustentable de la madera a través de la certificación de troncos, el gobierno de Sabah, a través del Departamento Forestal y el recién formado Consejo Nacional de Certificación de Troncos (NTCC) se unieron para trazar los criterios e indicadores para evaluar la sustentabilidad (ver *El Mundo Indígena 1997-98* por más detalles sobre la estrategia de Sabah para implementar un Sistema Sustentable de Manejo Forestal, SFMS). Las consultas con los accionistas fueron realizadas a nivel estatal y nacional. Estas consultas –aunque asistieron ONGs que trabajan con comunidades indígenas – fueron consideradas por muchos como demasiado rígidas y limitadas pues no dieron participación a las comunidades directamente y se realizaron en un período tan corto.

Los Criterios e Indicadores malayos (MC&I) siguieron estrictamente las directivas del modelo ITTO y se concentraron fundamentalmente en los aspecto técnicos para evaluar la extracción de madera y la reforestación, principalmente mediante el establecimientos de plantaciones de árboles. No brindó espacio suficiente para el reconocimiento de los derechos de los pueblos indígenas a los recursos territoriales y forestales, la contribución al manejo forestal y una activa participación en el monitoreo y evaluación de las Unidades de Manejo Forestal (FMU). Se requiere un estudio social de base como prerequisito para un plan de manejo del área forestal comunitaria en cada FMU. El requisito de estudios sociales de base, sin embargo, no incluía una directiva específica sobre el ámbito y la cobertura del estudio y no estipuló la participación de las comunidades indígenas en la realización de los estudios. Aparentemente, muchos de los estudios fueron realizados por los mismo FMU contratados a universidades.

En general, la comunidades son consideradas como participantes pasivas y receptoras de los programas económicos en las actividades del SFM. También fue disturbante observar que el intento en la certificación de madera fue considerado por las compañías madereras detentadoras de los FMU durante 100 años, y el Departamento Forestal como un mero ejercicio sin mucho compromiso ni urgencia para implementar.

Para las comunidades indígenas, los SFMS podrían ser considerados como una estrategia para lograr el reconocimiento de su bosque, aunque de una forma limitada. Una serie de talleres de comunidades fueron organizados para explicar la política del gobierno de tomar parte en la delineación y zonificación de las áreas forestales comunitarias dentro del FMU, lo cual es requerido por los SFMS. Los talleres tenían la intención de preparar a las comunidades para que participaran más en tomar parte de la evaluación y monitoreo de las compañías que operan dentro o cerca de las áreas forestales consuetudinarias. Estos esfuerzos locales podrían ser complementados por la campaña nacional en marcha para obtener el reconocimiento de la tierra y los recursos. Otros esfuerzos incluyen diálogos conjuntos con los funcionarios del Parque para exceptuar tierras consuetudinarias de parques y áreas protegidas.

Mientras tanto, las inundaciones que golpearon al distrito de Penampang en enero de 1999 –las peores jamás- revelaron serios problemas ambientales que son caracterizados por un mal planeamiento y administración de los poblados. La inundación fue empeorada por el embalse de uno de los tributarios del Ríos Moyog. Gran parte de las áreas forestales también han sido explotadas y reemplazadas por pequeñas plantaciones de caucho o residencia, mientras que los manglares, arrozales y pantanos han sido llenados de tierra para

dar lugar a la urbanización. El hecho de que no existen leyes para controlar actividades de movimiento de tierras permite a los urbanizadores hacer como les plazca. Muchas de las comunidades *kazadan* y *dusun* que residen en el área se quejaron de extrema pobreza y pérdidas de cosechas como consecuencia de las inundaciones antes del período de cosecha.

Las mujeres indígenas en Sabah

Generalmente los temas que afectan a las mujeres indígenas hoy se centran en la participación en la toma de decisiones, falta de reconocimiento de los roles que juegan las mujeres en la sociedad y en obtener iguales oportunidades que los hombres. La participación activa en la toma de decisiones y el obtener iguales oportunidades en el ámbito social, económico y político tiene que ser un esfuerzo consciente en cualquier grupo que trabaje con la comunidades indígenas. En el trabajo organizacional de la organización indígena PACOS (Partners of Community Organisations) con las comunidades y las subsiguientes actividades organizadas por las mismas comunidades u organizaciones, las mujeres han aprendido que no necesitan estar siempre en una posición subordinada, y que tienen una parte en los asuntos de las comunidades. Sin embargo, las mujeres han sido alentadas a asumir posiciones de toma de decisión después de ganar la confianza necesaria. Las pocas mujeres que han surgido como modelos de rol han alentado a otras de la comunidad a dar un paso adelante.

Esto incluye también participar activamente en temas de tierras y negociar por los derechos a la tierra, por ejemplo, lo cual es considerado un dominio del hombre. Para muchas mujeres indígenas en Sabah, este proceso se ha dado a través de una participación inicial en áreas que son familiares, como la educación y las actividades socioeconómicas para tomar confianza y mejoramiento, a partir de las cuales pasan a tomar otros roles activos en otros temas.

La discusión sobre temas de género también planteó el hecho de que la división de los roles basados en la división de género, como se practicaba en las actividades tradicionales, es considerado igualitario y no necesita ser considerado como un estereotipo de los roles de las mujeres. Por ejemplo, es generalmente aceptado que mientras que tanto los hombres como las mujeres trabajan junto en el cultivo del arroz, las tareas más pesadas caen sobre los hombros de los hombres mientras que las tareas más tediosas y la producción agrícola son generalmente realizadas por las mujeres. Sin embargo, debido al cambio en el entorno social, tiene que haber una constante revisión de estos roles para permitir compartir más las responsabilidades.

TAILANDIA

Durante las décadas pasadas han ocurrido profundos cambios entre los pueblos indígenas - a menudo llamados "pueblos tribales de las colinas" - quienes viven predominantemente en el norte y oeste de Tailandia. La mayor parte de esos cambios han acarreado problemas y debilitado los derechos de los pueblos indígenas con relación a sus tradiciones culturales, economía y religión. Actualmente, los principales problemas que ellos enfrentan son la falta de ciudadanía y derecho sobre las tierras, cambiantes políticas gubernamentales y la reducción de la tierra accesible para cultivos de sustentación. Más aún, la pérdida de tradiciones culturales y la adaptación forzada y asimilación de minorías étnicas a la mayoría *thai* están creando graves problemas en la vida de las nuevas generaciones.

La desastrosa deforestación en el comienzo del desarrollo económico desde los años '60 y el aumento de la población *thai* han tenido graves consecuencias para las minorías.

La agricultura extensiva orientada a la exportación ha reemplazado la tradicional agricultura de sustentación del pueblo *thai*, y en muchos lugares también la de los pueblos indígenas. A menudo los indígenas fueron reasentados debido a que sus tierras fueron confiscadas por el gobierno. Esto tuvo lugar usualmente en nombre de la conservación y regeneración de la tierra. Pero en realidad, la fuerza impulsora detrás de estos programas era el interés de las compañías mineras y forestales.

Los informes parciales hacían responsables a los pueblos indígenas por el daño al medio ambiente en las tierras altas. Desde que el gobierno comenzó a ser más sensible a los problemas del medio ambiente, muchas organizaciones, tanto *thai* como extranjeras, han estado tratando de mejorar la situación. Pero las ideas y soluciones para hacerlo eran extranjeras y no tomaban en cuenta la específica situación y cultura de los pueblos indígenas, lo cual causó nuevas complicaciones.

Actualmente hay una urgente necesidad de establecer una red entre los diferentes grupos étnicos y sus comunidades para una mejor comprensión de su situación y para fortalecerlos en su lucha por sus derechos.

Desalojos de Granjeros de las Tierras Altas

En 1999, se intensificó el conflicto entre los habitantes *thai* de las tierras bajas y los granjeros indígenas de las tierras altas. Los granjeros *thai* de las tierras bajas y los ambientalistas estaban actuando en forma independiente o en cooperación con personal del gobierno. Se estima que en 1999 alrededor

de 600 pueblos tribales fueron desalojados de sus hogares como resultado de la colisión entre los intereses de los granjeros de las tierras bajas y la política de medio ambiente del gobierno en las tierras altas.

El 29 de marzo de 1999, por ejemplo, trece casas y cosechas fueron destruidas en un asalto en la aldea Tungpaka en la provincia de Chiang Mai, dejando a 60 personas sin hogar. Ese día, 30 hombres armados llegaron y fueron casa por casa. No dijeron nada, simplemente incendiaron las casas mientras la gente trabajaba en el campo.

El 21 de agosto de 1999 ocurrió otro incidente en la provincia de Nan. Alrededor de 10.000 habitantes de las tierras bajas, guardias forestales y soldados marcharon a través de las colinas y entraron en la aldea Paklang, liderados por el Director General del Departamento Forestal Real, Plodprasop Suraswadi. Pisotearon los campos de arroz y los bosquecillos de lichi del pueblo *hmong* y plantaron árboles jóvenes. Eso fue el comienzo de una serie de "ejercicios de reforestación" con la intención de volver el área a su "estado original". El Sr. Suraswadi declaró que dentro de cinco años, él habrá cerrado esta tierra. Insistió que no prohibiría el acceso a las tierras altas pero que no habría más cultivos.

Más adelante se informa con más detalle sobre el caso de las comunidades *akha* en la provincia de Chiangrai, luchando para evitar el desalojo de sus tierras debido a la política ambiental del gobierno.

Ciudadanía y Derechos sobre la Tierra

El primer censo de población tuvo lugar en Tailandia en 1956, según la Ley de Registro Nacional de Hogares. En ese momento los pueblos indígenas y tribales no habían todavía sido registrados debido a la dificultad de acceder a sus aldeas y la falta de funcionarios.

En 1969-1970 tuvo lugar una encuesta oficial de pueblos indígenas y tribales cubriendo 16 provincias en la parte baja y alta del norte de Tailandia, a saber, Nan, Chiang Rai, Chiang Mai, Mae Hong Son, Lampang, Lamphun, Tak, Sukhothai, Kampaengphet, Uthaithanee, Phisanulok, Loei, Phetchaboon, Prachuabkeereekhan, Phetburi, Ratchaburi. Se había registrado oficialmente a 119.591 personas.

Durante las últimas tres décadas, la población de las tierras altas ha aumentado gradualmente de 119.591 a 1.033.931 personas en 1999. Entre ellas, hay 494.104 personas a quienes se les ha otorgado la ciudadanía *thai*, en tanto que otras 107.276 personas todavía están en proceso de solicitud. El resto están en posesión de diferentes condiciones, tales como: inmigrantes legales, residencia temporaria, y la condición de pueblos de las tierras altas a los cua-

les les han dado tarjetas de identidad de pueblos montañeses (tanto tarjetas azules como verdes). Esta estadística muestra que casi la mitad de los pueblos tribales de las colinas todavía no han recibido una ciudadanía *thai.*

Aquellas personas que no han todavía recibido la ciudadanía *thai* son vulnerables y fácilmente explotados por los de afuera. Más aún, no se les permite viajar fuera de su propio distrito. El viajar fuera del distrito requiere un pase especial. Muchas veces los pueblos indígenas mencionaron que no eran extranjeros sino *thais* de segunda o tercera generación.

Hay dos problemas principales como consecuencia de la falta de ciudadanía. Primero, la gente no puede solicitar un "Sor Thor Kor", un certificado de uso de la tierra. Lo que significa que no pueden usar legalmente la tierra que ocupan. Segundo, sin ciudadanía es difícil encontrar empleo, y una vez contratado, es fácilmente posible la explotación o extorsión por parte del empleador.

Debido a la falta de solución a estos problemas, alrededor de 10.000 de las personas afectadas, en su mayoría pueblos tribales, se reunieron en una concentración frente a la Municipalidad Chiang Mai a fines de abril de 1999, para transmitir sus motivos de queja al gobierno. La manifestación protestaba contra la negativa a otorgar ciudadanía a los pueblos tribales, y la actual política forestal, incluyendo el no-reconocimiento de derechos sobre la tierra, y la ineficiencia y corrupción dentro de la burocracia gubernamental. La "Manifestación por Derechos" en Chiang Mai atrajo mucha atención hacia la situación de los pueblos indígenas en Tailandia.

El 19 de abril la manifestación había sido dispersada con uso inconstitucional de la fuerza por parte del estado *thai*. Fue una mañana de horror para las mujeres, niños y ancianos que se habían congregado en Chiang Mai, pero los manifestantes acordaron alejarse de la Municipalidad.

"La Manifestación por Derechos" de mayo de 1999 dio resultado. Una consecuencia fue una Resolución de Gabinete del gobierno *thai.* Se refiere tanto a los derechos sobre la tierra como al tema de la ciudadanía. Prevé:

1. *Derechos sobre la Tierra y Tenencia de la Tierra / Leyes del Departamento Forestal Real:*

- El establecimiento de una comisión de trabajo ad hoc para rever las cuatro leyes forestales impugnadas. Este proceso de revisión debe tener lugar dentro de un límite de 90 días desde la creación de la comisión.

683

- Las áreas de uso de la tierra individuales así como las comunales dentro de las comunidades deben ser medidas y registradas en las oficinas del distrito de la RFD dentro de los 30 días posteriores a la proclamación.
- La delimitación y el marcado de las áreas de tierra deben ser registrados.
- Todas las comunidades deben probar su uso de la tierra ante la declaración de situación de Parque Nacional o Área Protegida y deben probar su propiedad de la tierra de acuerdo a la ley.

2. Asunto de Ciudadanía:
- La creación de una comisión ad hoc para revisar los problemas de ciudadanía y el proceso existente de reclamo de ciudadanía *thai*. Este proceso de revisión debe tener lugar dentro de los 60 días a partir de la creación de la comisión.
- Existen tres categorías de personas dentro del grupo que tiene problemas con respecto a la ciudadanía:
- Gente que no ha concretado el proceso de reclamo de ciudadanía. Este grupo incluye personas cuyos padres o parientes tienen ciudadanía oficial *thai* o tienen documentos que prueban que ellos están calificados para obtener la ciudadanía. La gente que cae dentro de este grupo debe presentarse en la oficina del distrito del Ministerio del Interior y la oficina provincial para solicitar el otorgamiento de la ciudadanía dentro de los 60 días.
- La gente que todavía no está preparada para obtener la ciudadanía, debido a documentación incompleta o que no ha todavía completado el proceso de preparación. La gente de este grupo debe ser ayudada en el proceso de preparar la documentación necesaria por la comisión de trabajo ad hoc.
- Las personas que han entrado en Tailandia después de 1991 y por lo tanto caen en la clasificación de "situación de extranjero".

Otras consecuencias de la "Manifestación por Derechos" fueron, en la parte positiva, la realización de un seminario en Chiang Mai y uno en Bangkok con enfoque específico en los problemas de los pueblos tribales. En la parte negativa, el Grupo de Conservación Chom Thong compuesto de aldeanos *thai* de las tierras bajas protestaron el 24 de mayo contra la participación de académicos de la Universidad de Chiang Mai en la manifestación.

En mayo de 1999, hubo una asamblea de ONGs en la Fundación de Desarrollo del Norte, con la intención de planificar una más concreta división de tareas y responsabilidades entre las ONGs y un entrenamiento del personal

que trabajaba directamente con las comunidades en la Resolución del Gabinete.

Con respecto al asunto de la ciudadanía, se estableció un sub-grupo de trabajo luego de la creación del grupo de trabajo ad hoc para estudiar las leyes existentes, las reglamentaciones relacionadas con el tema de la ciudadanía y los criterios para otorgar una condición legal a los montañeses ilegales. Más aún, el sub-grupo de trabajo ha sido mandatado para informar al grupo de trabajo para su consideración y entonces presentarlo al gabinete para una aprobación final. El estudio ha sido recientemente terminado y ha obtenido la aprobación del gabinete. Entrará en vigencia a partir de junio 1 de 2000. La actual reglamentación/ley revisada se espera que tenga un gran impacto en los pueblos indígenas, especialmente en los grupos que todavía no tienen condición legal. Pueden ser autorizados a permanecer en Tailandia en condiciones temporarias, o pueden aún ser repatriado a su país de origen. Sin embargo, las clasificaciones e identificaciones solicitadas todavía no son claras y muy problemáticas.

CAMBOYA

Acceso a los Recursos Naturales en las Tierras Altas de Camboya

La mayoría de la población de Camboya pertenecen a la etnia *khmer* y viven en las tierras bajas donde el arroz es la principal cosecha. Además de los *khmer* de las tierras bajas, los *lao, cham* y pueblos de origen vietnamita, Camboya también tiene diferentes pueblos indígenas en las tierras altas. Viven en las colinas de las provincias de Ratanakiri, Mondulkiri, Kratie, Stung Treng, Pursat y Kompon Speu y tienen sus propios lenguajes y cultura tradicional. Sus vidas dependen de la agricultura *swidden*. Cultivan una gran variedad de arroz de las tierras altas intercalado, en el mismo campo, con una cantidad de diferentes cultivos vegetales. Esta dieta es complementada con pesca, la caza de pequeños animales y la colecta de vegetales y frutas del bosque. Otros productos del bosque como el rattan, el bambú y enredaderas son utilizados para la construcción, el hogar y utensilios agrícolas.

Desde el comienzo de la paz en los años 90, las áreas previamente remotas se vuelven más accesibles. Ya que son ricas en recursos naturales como madera, tierra y vida silvestre atraen a nuevos pobladores, compañías madereras y cazadores furtivos. Debido al crecimiento de población en las provincias de tierras bajas centrales, la tierra en esas áreas se vuelve escasa y cara y los

pueblos sin tierra se trasladan hacia áreas donde la tierra todavía es abundante. Mientras tanto, están invadiendo las tierras comunales de los montañeses indígenas, ya que las comunidades no tienen títulos oficiales sobre la tierra. En general, los habitantes de las tierras bajas están mejor informados que los montañeses locales, de cómo obtener derechos legales sobre la tierra. Más aún, ya que la mayor parte de los montañeses no sabe hablar o escribir el lenguaje nacional oficial *khmer.* La pérdida de las tierras comunales también ocurre debido a que oficiales militares y de la policía utilizan o hacen mal uso de sus conocimientos y posición para convertirse en dueños de grandes parcelas de tierra. Además estimulan las transacciones de tierra cuando pueden beneficiarse financieramente de la intermediación sobre ventas de tierra. Otra amenaza al sistema comunal tradicional de tenencia de la tierra proviene del gobierno nacional. Es a nivel nacional que se otorgan las licencias de concesiones madereras y de producción industrial. Esto ocurre mayormente sin consultar al gobierno provincial, por no mencionar las comunidades locales que viven en esas tierras y cuyo sustento depende de los recursos del bosque.

La tala ilegal fue incontrolada en la temporada de 1997/1998. El Fondo Monetario Internacional (IMF), el Banco Asiático de Desarrollo (ADB) y los grandes donantes pidieron enérgicamente a los gobiernos que pusieran fin a la tala ilegal ya que causó una tremenda pérdida financiera al presupuesto nacional, y solamente enriquecía a un pequeño grupo de influyentes funcionarios y militares. El FMI aún dejó en suspenso su asistencia para forzar al gobierno a actuar.

Aparte de esos eventos negativos, también fueron visibles tendencias positivas. Las Organizaciones No Gubernamentales (ONGs) y las organizaciones internacionales (OIs) que trabajan con montañeses indígenas comenzaron a crear conciencia acerca del desarrollo sustentable tanto entre las autoridades gubernamentales como entre los pueblos locales. Tuvo lugar un proceso de consulta para discutir y responder a las necesidades y derechos de los pueblos indígenas entre el gobierno de Camboya, las ONGs/OIs y representantes de comunidades locales. Estos intercambios contribuyeron a un entendimiento creciente y apreciación de la situación excepcional de la cultura de los montañeses indígenas y las prácticas de uso de los recursos naturales.

En setiembre de 1997, el Comité Inter Ministerial para el Desarrollo de los Pueblos de las Tierras Altas (IMCDHP) preparó un borrador de Lineamientos de Política Nacional sobre el Desarrollo de los Pueblos de las Tierras Altas. Estos lineamientos incluyen, entre otras, la recomendación de que los pueblos de las tierras altas tienen el derecho a participar y a ser consultados sobre todas las decisiones, planes y proyectos que afectan sus vidas

691

y comunidades. En el momento de escribir esto, a mediados del 2000, estos lineamientos de política todavía deben ser discutidos y aprobados por el Consejo de Ministros y la Asamblea Nacional. Muestra que es necesario un cabildeo intensivo y continuado para mantener los asuntos de los montañeses en la agenda.

Cambios en el Acceso a los Recursos Naturales Durante 1999-2000

Ley sobre la Tierra

En 1998, el ADB ligaba la provisión de préstamos agrícolas a una revisión de la ley sobre la tierra de 1992 ya que como muchos asuntos sobre la tierra no estaban adecuadamente reglamentados, la falta de tierra estaba aumentando y tenían lugar muchas irregularidades y disputas. Para lidiar con el aumento en el número de disputas sobre la tierra, en 1999 se establecieron Comités Provinciales de Resolución de Conflictos sobre la Tierra, para mediar en las riñas locales. Si un caso no puede ser resuelto en el ámbito provincial, aún puede ser referido al Comité Nacional de Resolución de Conflictos sobre la Tierra.

La ley sobre tierras de 1992 está principalmente basada en el cultivo y prácticas de uso de la tierra de los camboyanos de las tierras bajas y apenas refleja las prácticas de manejo de tierra comunal de los pueblos indígenas montañeses. Por lo tanto la revisión de la ley sobre tierras ofreció una excelente oportunidad de cabildeo para la inclusión de un capítulo específico sobre los derechos sobre la tierra de las comunidades indígenas.

Han tenido lugar discusiones intensivas entre los grupos de trabajo sobre ley de tierras de las ONG/OI, los consultantes sobre leyes de la tierra y el ADB y el Programa de Desarrollo de las Naciones Unidas (PNUD), los funcionarios oficiales y las comunidades montañesas. Demostró ser de enorme importancia el cabildeo para proporcionar explicación sobre las figuras clave del gobierno, ya que la mayor parte de ellos no era consciente de la cultura característica de los pueblos montañeses. El IMCHPD organizó un taller nacional del 23 al 25 de marzo de 1999 para discutir sobre los derechos sobre la tierra de los pueblos indígenas. Tanto el Vice-Primer Ministro H.E. Sar Kheng y el Presidente del Consejo de Ministros M H.E. Sok An asistieron al taller nacional. La elección de la fecha resultó ser perfecta, ya que este taller siguió de cerca la reunión de donantes de Camboya, que recién se había realizado en Tokyo y donde el presidente había enfatizado que Camboya debía urgentemente tratar los temas del manejo de la selva y la tierra. La principal contradicción entre la opinión de los pueblos indígenas y los gobiernos oficiales es que la mayor parte de las comunidades locales prefieren títulos y reconoci-

miento sobre su tradicional tierra comunal y reconocimiento de sus sistemas de uso y manejo de la tierra, en tanto que los funcionarios del gobierno prefieren el sistema de títulos sobre la tierra de familia individual.

El 29 de marzo de 1999, durante una reunión con representantes del Consejo de Ministros, se acordó que se incluyera un capítulo sobre derechos de los pueblos indígenas en la ley de tierras revisada. Los miembros del grupo de trabajo ONG/OI nuevamente consultaron a las comunidades locales y se reunieron varias veces con el equipo consultor del ADB. En febrero de 2000, el equipo consultante de la ley de tierras del ADB estuvo de acuerdo con el capítulo preliminar sobre derechos de la tierra para las comunidades indígenas y en presentarlo al gobierno. Sin embargo, en la traducción *khmer* algunos de los párrafos más cruciales del capítulo sobre pueblos indígenas no fueron incluidos. Lo que quedó eran algunas declaraciones generales que no proporcionan suficiente protección a las comunidades locales contra la apropiación y especulación de tierras ni una salvaguarda que les permita el continuar la tradicional agricultura swidden en una forma sustentable. Se necesita ahora una rápida reacción de los grupos de trabajo de ONG/OI ya que el CoM ha comenzado sus discusiones sobre la nueva propuesta sobre ley de tierras.

Invasión

En la provincia Ratanakiri, continúa la instalación de los pueblos no-montañeses y las compañías en las tradicionales tierras altas comunitarias, especialmente cerca de las capitales provinciales y de distrito. Algunas aldeas están comenzando a tomar medidas protectoras y a plantar castañas u otros árboles frutales a lo largo de las principales rutas para evitar que los extranjeros tomen posesión de la tierra de barbecho. La mayor parte de los montañeses tienen pocos medios para ganar ingresos en efectivo y ya que hay un rápido cambio hacia la economía monetaria, las ofertas financieras son muy tentadoras. Varias familias han comenzado a vender la tierra que originalmente era considerada propiedad de toda la comunidad; algunos vendieron toda la tierra que alguna vez cultivaron y se mudaron a otra área, otros solamente vendieron parte de la tierra que cultivaban y permanecieron en la aldea. Ellos creen que es mejor vender la tierra ahora y recibir algo de dinero que perderla pronto a manos de invasores sin obtener nada a cambio. Sin embargo, otros aldeanos se opusieron a la venta de tierra y este desacuerdo causa tensión entre los aldeanos. Es notorio que las actividades de desarrollo que necesitan del compromiso de la comunidad ahora obtienen menos participación por parte de los aldeanos. Donde la coherencia se está desmoronando los sistemas comunitarios de apoyo también son menos fuertes, comparados con otras al-

deas en el área que han sido menos afectadas por las ventas de tierra y las invasiones. En el área arriba mencionada, ahora está ocurriendo escasez de tierra y algunos aldeanos ya invaden las tierras tradicionales de otras aldeas causando tensión y disputas entre diferentes comunidades montañesas. (v.d. Berg, 2000)

Está ocurriendo un nuevo problema en las provincias del sudoeste en las montañas Cardamom. En áreas previamente inaccesibles dado que los guerreros de la oposición del Khmer Rojo tenían campamentos allí, está comenzando a haber tala y caza furtiva. Los nuevos pobladores también están comenzando a mudarse para desarrollar tierra agrícola en las áreas deforestadas. Los pueblos indígenas que han vivido sin ser molestados durante todos los años de la guerra, ahora pueden estar confrontados con extranjeros que están invadiendo sus tierras. Si esta tendencia no es manejada adecuadamente, las selvas y sus recursos que todavía son abundantes podrían menguar rápidamente.

Selvas

A principios de enero de 1999, el Gobierno Real de Camboya (RGC) ordenó tomar enérgicas medidas contra las actividades de tala y cerrar todas las compañías y aserraderos que están actuando ilegalmente. Se actuó inmediatamente y se enviaron equipos bien entrenados y armados. A fines de enero, se cancelaron 9 concesiones de tala por un total de 2.173.946 hectáreas en todo el país. En diciembre de 1999 había todavía 21 concesiones de tala activas con licencias por un total de 4.739.153 hectáreas (Global Witness, 1999). Sin embargo, se otorgaron nuevos permisos de concesión. Aún a compañías con malos antecedentes y que anteriormente habían probado no respetar las prácticas de manejo sustentable de las selvas, como Pheapimex Fuchan Cambodia Co. Ltd. y Hero Taiwan Co. Ltd.

El gobierno nacional proporcionó a Hero Taiwan una licencia para una concesión de 60.150 hectáreas en la provincia de Ratanakiri por un período de 25 años. Dentro del área de la concesión, 10.000 personas viven en 33 aldeas. El acuerdo de la Hero Company con el Departamento de Forestación establece que sitios importantes para la cultura o la tradición, o áreas que las comunidades desean proteger, quedarán excluidas de la tala. Sin embargo, Hero compró constructores de caminos y taladores en las aldeas sin que tuviera lugar tal tipo de consulta. A mediados de marzo, los taladores y constructores de caminos de Hero comenzaron a construir un camino dentro de la selva y los aldeanos comenzaron una protesta. El 11 de mayo de 1999, los aldeanos de los pueblos de Svay, Khmeing y Santouk fueron forzados a poner su impresión digital en un documento cediendo sus tierras para ser taladas

(Global Witness, 1999). Los aldeanos se opusieron a la tala ya que destruye el eco sistema del cual depende el sustento de los aldeanos. También creen que los espíritus de la selva se enojarán y causarán enfermedades o muertes en las aldeas. Las autoridades provinciales y las ONGs/OIs trataron de mediar en el conflicto. Se acordó hacer un estudio de recursos culturales para definir el impacto de la tala en los sitios de significado religioso y cultural. Se hicieron mapas de los sitios de colecta de productos de la selva no-madereros, de los espíritus de la selva y de la montaña en el distrito de O'Chum y equipos entrenados para hacer estudios similares en otras áreas de la concesión para asegurarse que Hero respetaría esos importantes sitios culturales (Departamentos Gubernamentales 2000).

A pesar de que Pheapimex Fuchan tiene una muy mala reputación debido a actividades ilegales previas, consiguieron una vez más una concesión de tala para 350.000 hectáreas entre las provincias de Stung Treng y Ratanakiri. La concesión incluye áreas en la zona parachoques del Parque Nacional Virachey, una de las más importantes áreas protegidas de Camboya. En el momento de ser declarado parque, problemas de seguridad hicieron que la frontera pudiera ser delimitada sólo aproximadamente. El Decreto Real creando el parque permitía futura expansión. Había una propuesta de hacerlo por vía de una zona parachoques. Tanto las provincias de Ratanakiri como Stung Treng lo aprobaron, antes de que se descubriera que el Departamento Nacional de Selvas y Vida Silvestre había otorgado una concesión forestal a Pheaphimex. Desde entonces, la propuesta de la zona parachoque llegó a punto muerto.

En las charlas siguientes entre el RGC y el ADB en enero de 2000 para discutir el programa de préstamos del país, el RGC advirtió al ADB de que no estaba entre las prioridades del gobierno el solicitar mayores préstamos para el desarrollo del sector forestal. El gobierno le solicitó al ADB que enfocara la asistencia técnica más en las tareas de asesoramiento relacionadas a la revisión de concesiones, la ley forestal y la reglamentación y lineamientos guía de las comunidades selváticas.

En abril de 2000, se dio a conocer y discutió un borrador de informe de una Revista de la Concesión Forestal de Camboya. El informe establece que no se puede culpar a ninguna entidad por la crítica situación que ha surgido en las selvas de Camboya; que la crisis es el resultado de una total falla del sistema que es el resultado de la codicia, corrupción, incompetencia y actos ilegales que estaban ampliamente difundidos y que habían penetrado todo como para desafiar la designación de ser el primer culpable. (ADB, 2000). La mayor parte de las concesiones forestales inspeccionadas fue clasificada como

mostrando un desempeño desde muy pobre a inaceptable. Los tenedores de concesiones no están de acuerdo con todas las críticas y declararon que gran parte de las actividades ilegales es realizada por militares poderosos y que ellos no pueden evitarlas (Phnom Penh Post, 2000). Ahora se requiere, por un nuevo acuerdo, que todos los concesionarios rehagan sus planes de manejo y que consulten y coordinen con las comunidades. Dados los antecedentes de muchos concesionarios, un número de ONGs continúan estando preocupadas acerca de la retención de las peores concesiones y están presionando para que sean canceladas. Esto parecería, sin embargo, que es poco probable y que el ADB y otros donantes no presionarán para que sean retiradas. En general, no hay todavía una verdadera crítica de la adecuación (o lo contrario) de un sistema centralizado de industria forestal que proporcione beneficios o compensación a las comunidades locales, a pesar de que hay mucha evidencia en contrario.

Agua

La deforestación comienza a tener un impacto negativo en la provisión de agua, ya que se almacena menos agua en la tierra y las capas superiores simplemente son lavadas por las fuertes lluvias. Los árboles caídos bloquean las corrientes causando una menor provisión de agua y peces a las aldeas. Los aldeanos que viven en la vecindad de una plantación de palma de aceite de 20.000 hás. en el distrito de Oyadao, Ratanakiri, mencionaron que la calidad del agua estaba afectada por fertilizantes y pesticidas utilizados en la plantación (v.d. Berg, 2000).

En la estación de las lluvias de 1999, una vasta área de tierras bajas agrícolas a lo largo del Río Se San se inundó cuando los niveles del Río Se San crecieron repentinamente debido a la liberación de un gran volumen de agua del reservorio de la represa Yali Fall en Vietnam. Desde entonces, también las huertas de vegetales y tabaco a lo largo del Río Se San se han inundado debido a fluctuaciones irregulares. Las inundaciones debidas a la liberación de agua de la Represa Yali Fall parecen haber ocurrido desde 1996 (comentario personal Ian Baird). Como resultado de los continuados escapes se ha vuelto cada vez más peligroso para los aldeanos el cruzar el río o pescar en él. La calidad del agua, especialmente cuando está alta, parece ser una seria amenaza para la salud que debería ser considerada (comentario personal Ian Baird). Además debido a que la gente no es informada con anticipación cuando se libera el agua, se han perdido un gran número de avíos de pesca y botes. Algunos aldeanos mudaron sus casas a áreas más altas y otros también están planeando hacerlo. Si más cantidad de gente se muda a tierras más altas, po-

drían remplazar la pesca por la caza presionando la población de vida silvestre en el Parque Nacional Virachey que está situado cerca de allí (Baird, 2000).

Vida Silvestre

Con la apertura de áreas previamente inaccesibles, no solo los cazadores furtivos sino también los equipos de investigación penetraron en 1999/2000 en las densas selvas de Camboya para registrar, contar, fotografiar su todavía abundante población silvestre. Se encontraron ecosistemas/cadenas alimenticias completamente intactos así como muchas especies amenazadas de extinción en otras partes de Asia. Se necesitan urgentes medidas de protección y conservación para salvar estos hábitats ambientales únicos. Sin embargo, mucha gente ve la vida silvestre como un equivalente a dinero. La caza furtiva y los acuerdos oficiales de vida silvestre a través del Departamento de Forestación y Vida Silvestre plantea serias amenazas ya que son grandes las exigencias de animales y partes de ellos que pueden ser utilizados como afrodisíacos, medicinas o para pruebas médicas. Ya que casi no existen medidas de protección institucionales, la conservación puede resultar difícil. Un signo de creciente conciencia de este problema es que el Primer Ministro Hun Sen asistió a la apertura de un zoológico para vida salvaje rescatada y confiscada, situado cerca de Phnom Penh. Pidió un alto en la caza furtiva, para proteger la vida silvestre de Camboya y mantener los animales en estado salvaje.

Situación Sanitaria

El cuidado de la salud en las áreas remotas continúa siendo precario. En 1999, una grave epidemia de cólera se diseminó entre la población de la provincia de Ratanakiri. El tardío reconocimiento de la seriedad de la epidemia por la población y los funcionarios sanitarios dio como resultado que 130 personas murieran. El número de víctimas hubiera podido ser menor si se hubiera actuado inmediatamente cuando se notificaron los primeros casos. Epidemias más pequeñas de otras enfermedades tales como tos convulsa y sarampión también han causado muertes e incapacidades entre las comunidades indígenas montañesas ya que las irregulares campañas de vacunación no llegan hasta ellas.

Red de Mujeres Indígenas

Durante el año 1999-2000, la Red de Mujeres Indígenas en Ratanakiri ha defendido activamente la representación y participación de las mujeres en consultas sobre el uso y manejo de los recursos de la tierra y la selva por los

pueblos indígenas. Pero una de sus principales actividades fue el cabildear con el gobierno nacional sobre el reconocimiento de los derechos comunales sobre la tierra de las comunidades indígenas en la nueva ley de tierras. Esto dio como resultado que una de sus miembros fuera elegida como miembro del Grupo de Trabajo de ONGs/OIs en Tierra y Recursos Naturales.

Algunos miembros de la Red de Mujeres Indígenas han estado asistiendo a talleres nacionales e internacionales y reuniones como la consulta del ADB en Mayo de 2000 en Chiang May, Tailandia. Miembros individuales también han tomado cursos de entrenamiento, entre otros sobre liderazgo y asuntos relacionados con los ancianos. Algunas de las mujeres indígenas que conocen el lenguaje *khmer* ahora están estudiando inglés ya que quieren poder participar en conferencias y reuniones de manera más activa.

Personas que han contribuido:S

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BIRMANIA

Birmania[1] es un país rico en diversidad étnica. El régimen birmano que se auto denomina el Consejo Estatal de Paz y Desarrollo (SPDC) ha utilizado esta diversidad como justificación para la represión, alegando que su dominio es necesario para mantener el país unido.

Todos los grupos étnicos, con la excepción de los *anglo-birmanos*, comunidades inmigrantes del sur y el este asiático, son considerados indígenas para Birmania, en sus localidades específicas. La etnia *birmana* que domina el rico delta también domina el gobierno central. Son estos militares dominados por los *birmanos* quienes gobiernan el país con puño de hierro.

La junta ha utilizado una política de "birmanización" para suprimir y erradicar la identidad de otros grupos indígenas. También la religión ha sido utilizada como justificación para la opresión, en particular en el contexto de nacionalidades étnicas quienes no pueden ser budistas, por ejemplo, *chins* y *karens* que son predominantemente cristianos, y los *rohingya* que son musulmanes.

Previo a la colonización por los británicos y la independencia en 1948, algunos estados étnicos y/o principados se consideraban a sí mismos como separados o semi-independientes del gobierno central. En 1947, Bogyoke Aung San (el Héroe de la Independencia de Birmania) y varios líderes étnicos estatales firmaron el Acuerdo Panglong, un documento que endosa la formación de una Unión de Birmania. El Acuerdo Panglong consagraba muchos derechos de los diferentes pueblos indígenas, que estaban incluidos en la Constitución de Birmania. El desacuerdo y la resistencia a la erosión de dichos derechos por subsiguientes administraciones (principalmente militares) ha

dado como resultado una situación de guerra civil continuada en muchos estados étnicos.

Por conveniencia, el término "étnico" es utilizado en este artículo para definir grupos étnicos no *birmanos* indígenas del país. Es preferible al uso del término "minoría étnica", ya que el total de población de grupos étnicos de nacionalidad *no birmanos* pueden ser más que la percibida como mayoría *birmana*. Los paréntesis que contienen fechas ( ) que aparecen junto a incidentes descritos en este artículo indican las fechas en que esos incidentes fueron informados, ya sea en los medios dominantes o comunitarios.

Impactos de la Crisis de Derechos Humanos de Birmania sobre los Pueblos Indígenas

El régimen militar de Birmania, el Consejo del Estado de Paz y Desarrollo, es uno de los más notorios infractores de los derechos humanos del mundo. Las violaciones y flagrantes malas administraciones cometidas por la junta afectan las vidas de todos los ciudadanos birmanos (irónicamente, incluye al personal militar de baja graduación) dando lugar a la descripción "violador a igual oportunidad". Sin duda, la junta ha usados todas las etiquetas a su disposición para justificar el abuso a una gama de comunidades - ya sea por afiliación política, religión y etnia.

Es importante notar que en la mayor parte de las situaciones de conflicto y opresión, son generalmente las mujeres y los pueblos indígenas quienes sufren los peores impactos. Birmania no es una excepción: Las más brutales violaciones tienden a suceder frecuentemente en áreas rurales, especialmente en las áreas de frontera, donde hay una gran concentración de gente con antecedentes étnicos no birmanos.

En el contexto civil y político, la negativa de los militares a reconocer el resultado de una elección general que organizaron el 27 de mayo de 1990 ha desfavorecido mucho a los grupos étnicos de nacionalidad no birmana. La Liga Nacional para la Democracia (NLD) que ganó 81% de los lugares en el Parlamento tiene una política sobre la diversidad étnica mucho más progresista. Diecisiete por ciento de los escaños del Parlamento fueron obtenidos por partidos de base étnica, y solamente 2 por ciento por Partido de la Unidad Nacional con apoyo militar. Varios de los partidos étnicos han sido desterrados.

En tanto que los observadores consideran que los abusos civiles y políticos de la junta afectan en su mayor parte a los disidentes birmanos, esto también impide que los grupos nacionalistas étnicos ejerzan legítimamente sus derechos políticos. También se desea una mayor democracia en Birmania

porque implica un mayor espacio político y posibilidades para que los grupos étnicos y la administración birmana logren una solución pacífica.

La flagrante mala administración por parte de la administración militar, el dedicar mayores recursos a la maquinaria militar a expensas de la educación y la salud, y las más obvias violaciones a los derechos humanos han dado como resultado los siguientes impactos:

- Mayor militarización entre algunos grupos étnicos, especialmente en áreas vulnerables a ataques y saqueos por el SPDC;
- Pérdida de vida y seguridad;
- Pérdida de propiedad, acceso a tierras tradicionales y fuentes de sustento;
- Empeoramiento de la escasez de comida y la malnutrición;
- Supresión de la identidad cultural y la educación;
- Falta de cuidados básicos de salud y oportunidades de educación;
- Aumento de gente desplazada internamente y refugiados;
- Mayor vulnerabilidad al tráfico humano;
- Crecientes sentimientos de humillación y trauma sicológico y emocional.

Militarización y Guerra Civil

Del lado de la junta, se continúa sin disminuir los reclutamientos forzados y coercitivos en el ejército. Trágicamente, hombres jóvenes y muchachos de grupos étnicos son a menudo reclutados para enfrentarlos contra civiles y soldados rebeldes en otras áreas étnicas.

En la necesidad de defender las comunidades y tomar represalias contra ataques militares, muchos ejércitos rebeldes étnicos buscan inflar su propia capacidad por medio de contribuciones en recursos materiales, reclutas e información desde sus comunidades.

La incidencia de niños soldados es una de las más altas del mundo, siendo todas las partes culpables de esta violación. Esto fue destacado por un frenesí de los medios acerca del "Ejercito de Dios" liderado por los mellizos de 12 años Johnny y Luther Htoo a principios de 2000.

Las aldeas sospechosas de apoyar a los rebeldes están sujetas a violencia brutal y castigos. Estas comunidades sufren por ser un "sándwich" entre el gobierno y las fuerzas rebeldes, debiendo proveer recursos y reclutas para ambos lados. Muchos pierden tanto la vida como la propiedad cuando estallan luchas entre lados opuestos. Recientemente, el SPDC ha ayudado a esta-

701

blecer grupos de milicianos étnicos como contra fuerzas para los ejércitos étnicos rebeldes.

Birmania se está convirtiendo en uno de los países más fuertemente minados del mundo. Las minas terrestres antipersonales son usadas por el SPDC y la mayor parte de los ejércitos rebeldes.

Violaciones a los Derechos Humanos

El patrón de violaciones a los derechos humanos cometidos por la junta es consistente con los patrones generales de guerra de baja intensidad infringidos a varias comunidades indígenas históricamente en todo el mundo. Las "motivaciones" de esos abusos pueden groseramente ser categorizadas como esfuerzos para

- Controlar a las comunidades indígenas por el miedo
- Desplazar las comunidades de sus patrias y donde obtienen el sustento para erosionar su identidad
- Crear reservas de mano de obra de bajo costo y/o esclava, mantenimiento de una zona de parachoques humano entre las tropas del gobierno y los ejércitos rebeldes
- Cortar los apoyos a los ejércitos rebeldes y grupos disidentes
- Limpiar tierras para venta o arrendamiento a migrantes o intereses comerciales, producción de cultivos comerciales
- "Sanitizar" áreas para los llamados proyectos de desarrollo que beneficiarán a la junta, por ejemplo el proyecto propuesto de Represa Salween que causará un inmenso daño a las comunidades indígenas y su medio ambiente.

Barreminas humanos: Debido al miedo de ser convertidos en barreminas humanos, mas de 500 *karen* huyeron del estado central Karen a pesar de la traicionera estación de los monzones. La Unión Nacional Karen informa que se les había indicado a cinco divisiones de infantería ligera de la junta militar que sojuzgaran el área este año, la limpiaran de minas y utilizaran a los aldeanos como barreminas humanos (2 de setiembre 1999).

Acoso y Reubicación Forzosa: Continúa sin tregua la reubicación forzosa y el acoso a los aldeanos que son considerados simpatizantes de las fuerzas opositoras. Se emitió una orden de reubicación para 31 aldeas en la municipalidad de Kyar-in-seik-kyi (6 de abril de 1999), y a principios de mayo de

1999, se notificó a tres aldeas *shan* con tres días de anticipación, que debían reubicarse.

A treinta y cuatro aldeas en la municipalidad de Murng-Pan, se les dio entre tres y cuatro días para reubicarse y se les advirtió que cualquiera que permaneciera sería considerado un "elemento destructivo" (30 de abril de 1999).

Trabajo Forzado: Se exige mano de obra para la industrialización de las tierras agrícolas en el estado de Kachin municipalidad de Mohnyin. Se requiere a todos los hogares en la región del municipio de Indawgyi que contribuyan con mano de obra (29 de noviembre de 1999).

Los *chin* también sufrieron órdenes de mano de obra forzosa para la construcción de caminos (29 de mayo de 1999) y detención arbitraria de 100 aldeanos (26 de junio de 1999).

En enero de 2000, la Organización Nacional Arakan Rohingya (ARNO) informó que los *rohingyas* eran utilizados como mano de obra forzosa en un proyecto de desarrollo de las UNHCR del estado Arakan. El Jefe de la Inteligencia Militar local Mayor. Win Myint uso cientos de *rohingyas* de las aldeas Nanragone, Maunggyitaun, Alaygyaung y Seinyaung wai, como mano de obra forzosa en un proyecto carretero. Se obligó a los aldeanos a firmar papeles en blanco declarando recibos de dinero. Ni el UNHCR ni el SPDC parecen haber investigado o respondido a este informe.

Ataques a las aldeas: Un grupo de 60 soldados SPDC disparó sobre una aldea *lahu* en Tachilek, ya que se sospechaba que la aldea ayuda a la resistencia Shan (Mayo 6, 1999). Una aldea Akha sufrió una suerte similar cuando 30 soldados entraron en la aldea y mataron al jefe y a 3 aldeanos como ejemplo para otros que pudieran considerar la posibilidad de apoyar a los *shan* (mayo 6, 1999).

Una madre y su hija, que se creía llevaban comida para los soldados *shan*, fueron violadas y asesinadas (abril 13, 1999). Quince pescadores *shan* también acusados de proporcionar comida a las fuerzas de la resistencia *shan* fueron rodeados por 80 efectivos de tropas de la junta y golpeados y asesinados (abril 9, 1999). Más tarde, once aldeanos *shan* fueron golpeados y asesinados por soldados SPDC cerca de la frontera Thai de la Provincia de Chiang Mai (abril 13 de 1999).

Escasez de alimentos: La inanición se está propagando debido a la militarización del gobierno y la economía, de acuerdo con un amplio informe compilado por *El Tribunal del Pueblo sobre Escasez de Comida y Militarización en Birmania.* Los militares fuerzan a los granjeros a vender un porcentaje de sus plantaciones de arroz para su redistribución a la mitad del precio del mercado. También destruyen cultivos, reubican aldeas, y les roban efectivo bajo pretexto de medidas de contrainsurgencia (octubre 20 de 1999).

Hay informes del este de Estado Shan que los granjeros son forzados a vender una porción de sus cosechas a las autoridades locales a 1/3 del precio del mercado. Cuando los granjeros se quejan, se les dice que eran órdenes de Rangoon (noviembre 3, 1999).

En el municipio de Laikha (al sur del Estado Shan), se le dijo a los granjeros que vendieran una cierta cantidad por acre de su cosecha, y aún aquellos cultivos que fallaron no fueron eximidos (noviembre 3, 1999). Esto significa que los granjeros deben comprar arroz en el mercado (a precio de mercado) para poder vender su cuota a los militares a precio reducido.

Represión política: Tres líderes de partidos de nacionalidad étnica fueron arrestados luego de reunirse con el Asistente del Secretario General de las NU, Alvaro de Soto, cuando realizó una misión a Birmania. Naing Tun Thein, 82, Presidente del Frente Nacional Democrático Mon, y Kyin Shin Htan, Presidente del Congreso Nacional Zomi, fueron arrestados el 3 de noviembre. El Sr. Saw Mra Aung de la Liga para la Democracia Arakan y Portavoz del Comité que Representa al Parlamento del Pueblo (CRPP, creado en setiembre de 1998 cuando los militares ignoraron un ultimátum de Miembros del Parlamento electos de convocar al Parlamento) también fue arrestado y sentenciado a 13 meses. No se dieron razones para los arrestos (noviembre 12, 1999).

U Aye Tha Aung, quien representa cuatro partidos de nacionalidad étnica en el Comité que Representa el Parlamento del Pueblo, fue arrestado el 23 de abril de 2000. En el momento de la impresión continúa detenido *incomunicado* sin información acerca de su paradero o estado de saludo.

Prohibición del lenguaje: En un área donde los carteles con los nombres de la aldea en escritura *shan* aparecían conjuntamente con señales en birmano, un Comandante SPDC ordenó que todos esos carteles fueran destruidos (abril 5 de 1999).

Aún en áreas de cese de fuego, el lenguaje étnico es declarado ilegal: En octubre de 1999, la Inteligencia Militar ordenó la clausura de una escuela étnica *mon* en la aldea de Kwan-Tar, municipalidad de Mudon. Se les infor-

mó a los padres de los alumnos que la escuela era una institución ilegal y que enseñar el lenguaje *mon* también era ilegal.

"Cese el Fuego"

En áreas en que el "cese el fuego" ha sido negociado entre el SPDC y los grupos étnicos locales, las violaciones a los derechos humanos, tales como mano de obra forzosa, extorsión y supresión de educación en lenguaje étnico, todavía siguen ocurriendo. En la práctica, la junta utiliza el cese el fuego estratégicamente tanto para propósitos económicos como militares. Por ejemplo, un grupo de cese el fuego y de comandantes de la junta local abrieron garitos en la municipalidad de Mong Pan (abril 28 de 1999).

Cese el fuego Shan: Un informe de un comandante del Norte de SSA explica como el territorio de SSA Norte fue reducido a un décimo de su antiguo tamaño, y que la junta prohibe la tala en el área. Pero a veces hay talas realizadas por tropas birmanas, en otras partes del Estado Shan, indicando que las razones de la prohibición son cortar un posible ingreso para los SSA del Norte y para la preservación del medio ambiente. El SSA también tiene prohibido reclùtar, en tanto que las gentes de la localidad son forzadas a servir como milicia en las "Unidades Anti-Insurgencia" (octubre 21, 1999).

Refugiados

El año pasado aumentó el número de gente que huía de Birmania. En Tailandia solamente, hay cientos de personas que todos los meses cruzan la frontera buscando refugio. Si bien es la prerrogativa de los países receptores el categorizar a aquellos que huyen de Birmania como "trabajadores inmigrantes ilegales", es indudable que la mayor parte de los que abandonan el país están huyendo de condiciones de guerra civil, abusos a los derechos humanos y pobreza extrema que son el resultado de la brutalidad y mala administración del régimen.

En Tailandia, por ejemplo, a los refugiados de la etnia *shan* se les niega el reconocimiento de refugiados y no existe campo de refugiados para ellos. Sucede lo mismo para otros grupos étnicos. Estos grupos están excluidos de la cifra oficial de refugiados de 120.000.

Entre tanto, tanto los IDP en Birmania como los refugiados ubicados en la frontera Thai son vulnerables a ataques, raptos y extorsión por parte de los SPDC y las milicias apoyadas por el SPDC. La junta también le ha negado ciudadanía a los refugiados o "trabajadores migrantes" en varias oportunidades.

Refugiados a lo largo de las fronteras: Las condiciones en los campos de refugiados pueden diferir de una región a otra. A la gente que vive en campamentos en Tailandia, generalmente se les proporciona arroz y sal. La mayor parte de los campamentos han llegado al tope de su capacidad, si no la han ya superado. Como las ONGs pueden proporcionar comida para la cantidad de gente que hay oficialmente en los campamentos, los recién llegados no contabilizados no reciben raciones. Tienen, o bien que encontrar comida en la jungla, o depender de la generosidad de otros refugiados.
El gobierno *thai* continúa amenazando con repatriar a los refugiados, con el Jefe del Consejo Nacional de Seguridad que declara que la situación en Birmania es "normal".

Personas Desplazadas Internamente: Las organizaciones de derechos humanos estiman que entre 600.000 a un millón de personas están internamente desplazadas en Birmania. Algunas de esas comunidades han sido reubicadas por la fuerza, por los militares *varias* veces.

En tanto que algunas personas desplazadas internamente (IDPs) se mudan de aldea en aldea, otros deben esconderse en la jungla. Otros viven en sitios de reubicación designados por el régimen militar. En esos sitios, nos se les proporciona ni techo, ni comida ni empleo, haciendo la vida extremadamente difícil. Algunas personas vuelven a las áreas de las cuales salieron, para cosechar sus cultivos. Esta es una actividad peligrosa, ya que muchas mujeres han sido interceptadas en camino, acusadas de proporcionar ayuda a grupos de resistencia étnica, acosadas y asesinadas.

La gente que huye a la jungla, enfrenta dificultades extremas para encontrar alimento y luchar con las enfermedades. Algunos pueden hurgar alimentos de la selva, y algunas veces vuelven a hurtadillas a los sitios de reubicación por arroz. El agua potable y la higiene son también serios problemas. Para evitar ser detectados por los soldados, la gente a menudo no construye casas y evita el hacer fuegos, aún cuando haga frío. Cuando los IDPs deciden cruzar una frontera internacional para convertirse en refugiados, su viaje es peligroso. Deben viajar de noche si los soldados están cerca. Algunas áreas han sido fuertemente minadas.

"Trabajadores Migrantes": Se estima que hay alrededor de 800.000 "trabajadores migrantes ilegales" de Birmania en Tailandia, trabajando por muy poco o nada. El gobierno *thai* frecuentemente realiza deportaciones en masa de esta gente pero generalmente vuelven, luego de pagar pesados sobornos a los funcionarios, tanto de Tailandia como de Birmania.

Mujeres

La violencia autorizada por el estado es una de las más serias amenazas para el bienestar de las mujeres, especialmente en áreas étnicas. Esta violencia puede ser dirigida a la población en su totalidad, como con el trabajo forzoso y la reubicación forzosa, pero también puede estar específicamente dirigida a las mujeres. La humillación y violencia contra las mujeres han sido documentadas repetidamente como armas para aterrorizar a las comunidades.

Las mujeres han sido torturadas, violadas y asesinadas, y las mujeres que hablan contra la injusticia también han sido objeto de violencia similar, como ejemplos de lo que sucede con los "alborotadores". Cuando las comunidades buscan justicia, no son los que han realizado actos de violencia los que sufren, sino las comunidades.

La inestabilidad económica y la creciente pobreza también son grandes amenazas para el bienestar general. Las mujeres llevan gran parte de la carga de mantener a sus familias, pero les faltan oportunidades educativas. Sin embargo, tienen grandes responsabilidades, que las llevan a aumentar la migración hacia las ciudades y los países vecinos. La explotación por parte de los traficantes en más la regla que la excepción para estas mujeres.

Derechos Económicos de las Mujeres

Son a menudo las mujeres, en áreas de conflicto, quienes deben proveer el sustento, cuando se llevan a sus maridos para hacer trabajos forzosos, o son asesinados.

La falta de oportunidades de empleo a menudo lleva al tráfico de mujeres desde Birmania, tanto internamente desde las áreas rurales a las ciudades como internacionalmente. Las mujeres son traficadas en varios campos incluyendo la construcción, la agricultura, el trabajo fabril y el trabajo sexual. Para las mujeres el viajar a través de contactos con intermediarios es una forma común de viajar por razones económicas, pero no es un medio salvo ni seguro, que a menudo tiene consecuencias devastadoras. En este intento de prevenir a las mujeres de ser traficadas a los países vecinos, el régimen militar creó un a ley prohibiendo a las mujeres entre 16 y 25 años a cruzar las fronteras a menos que estén acompañadas por sus guardianes legales. El régimen reivindica que esta ley es para proteger a las mujeres, pero en realidad solamente las hace más dependientes de los traficantes para hacerlas pasar a través de los puntos de control y las hace aún más vulnerables a la explotación.

Trabajo Forzoso: En áreas de conflicto, el trabajo forzoso está a menudo acompañado de extrema violencia y lleva a la escasez de comida minando la

capacidad de la familia de producir su propia comida o de obtener trabajo pago para comprar comida. Las mujeres son reclutadas ellas mismas para trabajar, o deben mantener el hogar en tanto que el marido está haciendo trabajo forzoso. En muchos casos, los hombres huyen de la aldea para evitar las órdenes de trabajo forzoso, pero en esos casos las mujeres son reclutadas en su lugar. Los trabajadores forzosos son golpeados y las mujeres a menudo son víctimas de violaciones.

Acceso a Asistencia Médica: El acceso a la asistencia médica es en general limitado, especialmente en áreas rurales y conflictivas. Aproximadamente 35% de la población no tiene acceso a ningún tipo de asistencia médica pública primaria.

Las mujeres, en áreas étnicas donde existen problemas de trabajo forzoso y reubicación, tienen extremas dificultades para conservar su propia salud y la de sus familias. Allí no sólo hay falta de atención médica, sino que no hay suficiente comida y techo, contribuyendo a la mala salud en general. El trabajo forzado y el temor a la violencia por parte de tropas militares del régimen, fuerzan a muchas comunidades a huir a la jungla. En tanto que están allí, la gente muere de enfermedades que usualmente no son una amenaza de vida, tales como varicela, fiebre y diarrea.

La Violencia Contra las Mujeres
La violencia militar autorizada contra las mujeres campea en toda Birmania. Es ejercida con el propósito de dar ejemplo a aquellos que desafían la autoridad. La violencia puede tener lugar en cualquier parte, pero es particularmente frecuente durante los trabajos forzados, en las detenciones y en áreas de conflicto o en áreas donde hay un gran número de tropas militares. Rara vez se logra justicia luego de que tiene lugar la violencia. Mucho más frecuentemente, la víctima, su familia, o comunidad sufren si se informa sobre la violencia a las más altas autoridades.

La Violencia y el trabajo forzoso: Además de ser una grave forma de opresión económica, el trabajo forzoso es también una fuente de terror para las comunidades debido a la violencia que generalmente lo acompaña.

El Relator Especial para la Comisión de las NU sobre los Derechos Humanos en Birmania, Rajsoomer Lallah, también ha documentado violencia contra las mujeres en su informe intermedio a la Asamblea General de las NU. Cita el caso de una mujer que huyó a Tailandia luego de haber sido

forzada a trabajar como changadora cuatro veces cuando todavía estaba amamantando a su bebé. También fue golpeada. En otro caso, mujeres de la etnia *shan* estaban entre un grupo de changadores obligados a llevar pollos y comida deshidratada para la unidad militar de Murngtorng. Los changadores debían dormir en el suelo, atados con un yugo, pero a las mujeres se las dejaba aparte. Durante la noche sus gritos eran escuchados por un granjero que también era parte del grupo. Aunque no se declaró aquí, no es raro que las mujeres changadoras también sean violadas por los soldados.

Violencia en las Detenciones: Las mujeres pueden ser detenidas por sus actividades políticas, compromiso con movimientos étnicos de resistencia o aún simplemente por supuestos vínculos con grupos contrarios al régimen. Cuando son detenidas, las mujeres son extremadamente vulnerables a violación y acoso. La violencia es utilizada no sólo para aterrorizar a las mujeres y sus comunidades, sino para desmoralizar a los hombres, como para decirles que no son suficientemente fuertes para cuidar a sus propias mujeres. Una vez, en mayo de 1999, cuatro matrimonios fueron detenidos cuando el capitán de un batallón no reconoció sus pases emitidos por otro batallón. Se les detuvo por tres días y tres noches, y las mujeres fueron llevadas a otro lugar y violadas todas las noches. Fueron liberados solamente cuando sus familiares pagaron 10.000 kyat por pareja.

Otros Actos de Violencia Militar: Las mujeres también son víctimas de violencia cuando se encuentran con soldados o cuando las tropas entran en las aldeas. A fines de octubre de 1999, cuatro mujeres que habían sido forzadas a reubicarse, volvieron a sus campos para cosechar su arroz. Se encontraron con 30 efectivos de las tropas del SPDC y fueron a continuación violadas y asesinadas. El capitán del batallón las acusó de proporcionar arroz a la resistencia *san*. Cuando las tropas volvieron al sitio de reubicación, le dijeron a las autoridades y a los líderes de la comunidad que habían ido a matar rebeldes, pero que como todos los hombres se habían ido, solamente habían podido matar a cuatro de las esposas. La gente del pueblo tuvo que ir a buscar los cadáveres ellos mismos para poder determinar las identidades de las mujeres muertas.

Entre las tropas del régimen, los más temidos en las áreas *karen* son los Sa Thon Lon, la Oficina de Investigaciones Especiales del Directorio de Servicios de Inteligencia de la Defensa y sus escuadrones de Represalia a la Guerrilla. Los escuadrones de Represalia a la Guerrilla trabajan en pequeños gru-

709

pos con el propósito explícito de ejecutar a todo aquel que se sospeche una conexión actual o pasada con el KNU o el KNLA.
Los escuadrones de Represalia a la Guerrilla son conocidos por ser especialmente brutales. Si solamente sospechan que alguien apoya o está relacionado con actividades del KNU o KNLA, sus métodos de ejecución son a menudo truculentos. La gente ha sido repetidamente apuñalada y desmembrada, sin hacer preguntas.

Consecuencias de informar sobre violencia sexual por parte del personal militar: En general, los sobrevivientes de violencia sexual enfrentan no sólo el impacto físico de la violencia, sino que son también estigmatizados por sus experiencias. En los casos en que las mujeres tienen el coraje de hablar y registrar quejas contra agresores que son personal militar, algunas veces se les da una pequeña suma de dinero a su familia par "compensar". Más a menudo, sin embargo, los agresores no enfrentan ninguna consecuencia y aquellos que informan de los delitos son aún más acosados.
En un caso en junio de 1999, cuatro mujeres fueron violadas luego del interrogatorio acerca de sus vínculos con las fuerzas de resistencia *shan.* El padre de la más joven de las víctimas se quejó al jefe y a los miembros del Comité de la Aldea, entonces todos fueron al batallón y registraron una queja ante el Comandante. El Comandante alineó a 70 soldados y le pidió a la joven que identificara a su violador. El hombre, sin embargo, no había sido alineado a propósito, y por lo tanto no pudo ser identificado.
El jefe y los miembros del Comité de la Aldea fueron entonces acusados de difamación a los militares y detenidos en prisión en la base militar. Esto no terminó aquí. Al día siguiente, el jefe fue golpeado hasta que perdió el sentido y se les ordenó a las familias que pagaran 2.000 kyat cada una para liberar a los detenidos. Entonces las cuatro mujeres que habían sido violadas también fueron multadas en 500 kyat cada una.

Matrimonio forzoso: A veces se fuerza a las mujeres para que se casen, especialmente en áreas en conflicto, cuando un oficial birmano se encapricha con una muchacha local y la pide en matrimonio. Algunas veces la familia o comunidad de la mujer la alientan para que se case si tienen miedo a las repercusiones de su negativa. Otras veces, pueden protestar, pero las mujeres son llevadas por los militares y forzadas a casarse. En otros casos, los líderes de la aldea tratarán de arreglar un matrimonio entre una mujer y el hombre que la violó, en un intento por "normalizar" la situación.

710

En una comunidad, la situación fue explicada como sigue:

> *"Les gusta casarse con mujeres que son demasiado jóvenes. Un soldado quería tomar por esposa a una niña* kayan *de 12 años de edad, llamada C-. La gente les dijo que la niña era demasiado joven, que no se la llevaran, pero su comandante forzó a la gente a dársela a su soldado. La niña tuvo que estar de acuerdo, aunque no quería. Otra muchacha, L-, estaba estudiando en 8º grado y debió dejar de estudiar (para casarse con un soldado). Tenía 14 años. Una muchacha de 18 años, llamada H- también debió casarse con un soldado. Ellas no querían casarse con los soldados pero el comandante dijo que debían casarse con sus soldados, por lo que tuvieron que hacerlo. Eso fue el año pasado. Una de las muchachas está próxima a tener un hijo. Sus padres no están muy contentos con ello."*

Otros han atestiguado que hay una política de alentar a los soldados a casarse con mujeres de nacionalidad étnica. Se les prometen recompensas monetarias o promociones, cuya escala depende de la educación y rango social de la mujer. Esto es significativo por dos razones. Una es porque la etnicidad de los hijos se determina por la de sus padres, y el casamiento entre soldados birmanos y mujeres de nacionalidad étnica contribuye al programa militar de birmanización en regiones étnicas. También es significativo porque los soldados buscan el matrimonio por promoción o ganancia, los matrimonios terminan cuando las tropas son trasladadas fuera del área. Las mujeres son entonces abandonadas con sus hijos y sin ninguna compensación por parte de los padres.

Nota Final: Un motivo de Esperanza

A pesar de la extrema opresión a que son sujetos los grupos indígenas en Birmania, todavía hay motivos de esperanza. El creciente compromiso con los derechos humanos y el proceso democrático entre los diversos grupos étnicos tiene implicancias positivas para el futuro de esas comunidades. Las comunidades locales han encontrado formas de continuar con su resistencia al SPDC, a menudo en formas no violentas. Su capacidad para documentar abusos y contrabandear tal información a grupos exiliados es considerable. También los es la creciente cooperación entre grupos étnicos, y entre grupos étnicos y la oposición democrática. Esta cooperación más estrecha y la el proceso de creación de coalición, si bien con fallas, es un progreso definitivo en la lucha contra el SPDC. (Hasta hace una década, era común ver ejércitos

étnicos compitiendo uno contra otro por recursos en lugar de contra el principal enemigo). Otro desarrollo a apoyar es el trabajo por la educación pacífica y fomentar la capacidad de realizar negociaciones y resolución pacífica de conflictos entre grupos étnicos. Por lo tanto es esencial la participación de grupos étnicos birmanos en foros internacionales y actividades de relacionamiento para obtener conciencia y apoyo internacionales.

Notas

1 La junta cambió el nombre del país de "Birmania" a "Myanmar" hace aproximadamente una década. Sin embargo, este cambio no es reconocido por el movimiento democrático. El cambio de nombre fue hecho sin consultar a los ciudadanos del país. Myanmar también es considerado un nombre chauvinista por muchos grupos étnicos.

2 Abreviaturas utilizadas:

KNU:	Karen National Union
DKBA:	Democratic Karen Buddhist Army (milicia pro-junta)
SPDC:	State Peace and Development Council (la junta)
NLD:	National League for Democracy (el mayor partido democrático)
KNLA:	Karen National Liberation Army
ARNO:	Arakan Rohingya National Organisation
CNF:	Chin National Front
UNHCR:	United Nations High Commissioner for Refugees
SSA:	Shan State Army

Fuentes

Gran parte de este informe fue extraído de las siguientes publicaciones Altsean-Birmanas:

REPORT CARD: *Looming Crackdown in Burma.* A5, 56 pp. Publicado en Bangkok 1999 SEP

REPORT CARD: *Burma: New Hope, Old Reality.* A5, 76 pp. Published Bangkok 2000 ENE

SPECIAL BRIEFING: *Women's Report Card on Burma.* A5, 28 pp. Publicado en Bangkok 2000 ABR

NAGALIM[1]

El proceso de paz India-Nagalim ha enfrentado muchos retrocesos en los últimos doce meses.

Como resultado, las conversaciones de paz han llegado a un punto muerto. En Julio de 1999, Kaushal Swaraj renunció como Emisario Especial del Primer Ministro de la India, A.P. Vajpayee para las conversaciones de paz. Según Kaushal Swaraj, el Primer Ministro Indio revió su afirmación de que el cese del fuego no tendría límites territoriales. India repetidamente no ha respondido a la propuesta adelantada por el equipo de Naga en Marzo de 1999 sobre temas sustantivos. Ahora con el encarcelamiento de Th. Muivah, el líder del equipo de paz de Naga, en Thailandia desde el 19 de enero de 2000, las conversaciones de paz se han pospuesto indefinidamente.

Este artículo presenta una actualización en la implementación del cese del fuego con una corta revisión del diálogo de paz.

Violación del Alto al Fuego

No se ha informado ningún enfrentamiento importante entre el Consejo Socialista Nacional (NSCN-IM) y las fuerzas indias de seguridad, durante los últimos 12 meses. Sin embargo, muertes de civiles a manos de "comandos revolucionarios" y encuentros menores e incertidumbres sobre el futuro del cese del fuego han oscurecido esta paz relativa.

Muchos civiles de Naga han sido asaltados y asesinados por comandos *kukis* incitados y ayudados por las fuerzas de seguridad indias. En uno de estos ataques *kukis*, todos los pasajeros *naga* fueron sacados de un autobús entre Imphal, la capital Estatal de Manipur, y Nongdam y ejecutados a quemarropa, matando siete al instante y dejando dos otros en condiciones críticas (La Tribuna de Assam, 2 de junio de 1999). Otro grupo clandestino, el Frente de Liberación Nacional Unido (UNLF), con base en Meitei, mató a dos lugareños de Naga en Manipur el 17 de Julio de 1999 como consecuencia de su ultimátum a que los *nagas anal* deben declararse Meiteis. El UNLF torturó muchos más lugareños de Naga y mató tres cuadros del NSCN.

Acto seguido, las fuerzas de seguridad indias arrestaron seis miembros del NSCN, mató dos KYKL(Kanglei Yawol Kana Lup) considerados aliados del NSCN y rescató un miembro del UNLF detenido por el KYKL (La Tribuna de Assam, 3 de agosto de 1999; para más información vea Sol del Noroeste 04-08-1999).

713

El NSCN (I-M) ha demandado la liberación inmediata de diecisiete de sus miembros detenidos por las fuerzas de seguridad indias desde Noviembre de 1999 (El Telégrafo 01-07-00).

Por otro lado, el NSCN (I-M) ha sido acusado de llevar a cabo emboscadas en las que murieron ocho hombres de las fuerzas de seguridad el 27 de Julio de 1999 en Assam, y el 5 de mayo de 2000 en la que murieron seis soldados cerca de Gauhati (Prensa Asociada, 27-07-1999, y 19-05-2000). El NSCN también ha sido acusado de llevar a cabo la emboscada al convoy del Primer Ministro del Estado de Nagalandia S.C Jamir el 29 de noviembre de 1999 donde murieron dos guardias.

La aplicación del Acuerdo de Cese del fuego entre el NSCN (I-M) y el Gobierno de la India ha sido desde el principio socavado por interpretaciones conflictivas de las reglas básicas del Cese del fuego, y las diferencias acerca del área de cese del fuego.

Las fuerzas de seguridad indias han dado interpretaciones contradictorias de las Reglas básicas cuando se llega a los elementos considerados "criminales". Algunas unidades de las fuerzas indias han luchado abiertamente con la facción de Kaplang contra el NSCN (I-M). Se dice que muchos miembros importantes de la facción de Kaplang, uno de los mayores aliados del UNLF, están en la nómina de pago del Primer Ministro del Estado de Nagaland, S.C. Jamir, quien a menudo opera con agentes estatales encubiertos. Se le acredita la muerte de 12 miembros de NSCN por lo menos (I-M) durante los últimos 12 meses. Por otro lado, aproximadamente 30 de sus cuadros, incluyendo, su Secretaria General Dally Mungro, han sido asesinados matado por el NSCN (I-M) en el mismo periodo. El Gobierno Estatal de Nagaland dirigido por S.C. Jamir está, en la actualidad "bajo investigación" por financiar la facción de Kaplang (El Expreso Indio, 1 de julio de 1999).

Cobertura geográfica del Cese de hostilidades

La India, obviamente, ha permanecido deliberadamente ambigua sobre el área de cobertura del cese de hostilidades. El texto del Acuerdo del Cese de hostilidades simplemente dice que "se ha decidido mutuamente al cese de hostilidades entre el gobierno de India y el Consejo Socialista Nacional de Nagaland." Así, el enfoque del Acuerdo está en dondequiera que el ejército de NSCN ha estado luchando contra el ejército indio, y no limitado al territorio de un estado. En otras palabras, el Acuerdo del Cese de hostilidades no sólo aplica al territorio del Estado de Nagaland sino a todas las áreas habitadas por *naga* en India (que en la actualidad están divididas por cuatro estados) donde los dos ejércitos han estado luchando. En octubre de 1998, hablando por el Primer

714

Ministro de India, Kaushal Swaraj afirmó que el cese de hostilidades es entre India y el NSCN, y que por consiguiente se aplica a dondequiera que ellos estén y no confinado a los límites territoriales del estado de Nagaland (El Telégrafo, 24 y 29 de julio de 1999).

El Mecanismo de Supervisión del Cese de hostilidades

El 29 de noviembre de 1999 se hizo una incursión en la oficina del representante de NSCN en el Mecanismo de Supervisión del Cese de hostilidades (el MM) en Kohima, por Assam fuertemente armados con Rifles, inmediatamente después que las noticias de emboscada al convoy de Primer Ministro Jamir llegaron a la ciudad. Era un intento obvio por culpar al NSCN de la emboscada. Aunque no pudo presentarse ninguna evidencia contra NSCN, la oficina forzosamente estaba cerrada el 1 de diciembre de 1999. Con esto el MM ha dejado de funcionar completamente. Esto ha elevado la tensión que los ejércitos opositores tienen que soportar aferrándose al frágil cese de hostilidades. Ellos se enfrentan ahora con el peligro creciente de los encuentros accidentales ya que ellos ya no están unidos por una línea de comunicación directa. Hay muchas lagunas en el funcionamiento del MM y tendría que ser puesto a punto cuando se reavive para servir el proceso de la paz eficazmente.

Las negociaciones para una Solución Política del Conflicto

Se han mantenido seis rondas de conversaciones desde el comienzo del cese de hostilidades en agosto de 1997. No hubo conversaciones de paz en los primeros diez meses debido a la inestabilidad política en India. Sin embargo, incluso cuando los equipos de paz se encontraron en la mesa de negociaciones, el equipo indio no estaba suficientemente preparado para discutir los problemas substantivos. Los *nagas* han sido pacientes con estas demoras. En marzo de 1999, en la ronda de conversaciones de Amsterdam, el equipo de paz *naga* presentó propuestas en muchos de los problemas substantivos, pero el gobierno de India hasta ahora no ha respondido. Los hindúes de línea dura, comenzando por L.K.Advani, el Ministro del Interior indio del partido gobernante, están por continuar la ocupación militar de Nagalim. Con las tales obstrucciones constantes, los otros líderes indios que están, por lo general, ignorantes de los asuntos *naga*, temen entrar en negociaciones serias.

Para empeorar las cosas, líder de NSCN Th. Muivah ha sido arrestado en el Aeropuerto de Bangkok por poseer un pasaporte falso el 19 de enero de 2000. Él fue a Bangkok para encontrarse con los miembros principales de la sociedad civil *naga* para la próxima ronda de negociación con los representantes del Primer Ministro de la India, que se fijó para del 30 enero al 2 febre-

715

ro en Amsterdam. A su salida bajo fianza, el 26 de enero, Muivah fue al aeropuerto Hat Yai con un pasaporte ilegal para viajar a los Países Bajos para los tres días de negociación de alto nivel con el gobierno indio. Pero nuevamente fue detenido en el aeropuerto el 30 de enero y sentenciado a un año de cárcel por posesión de un pasaporte no válido.

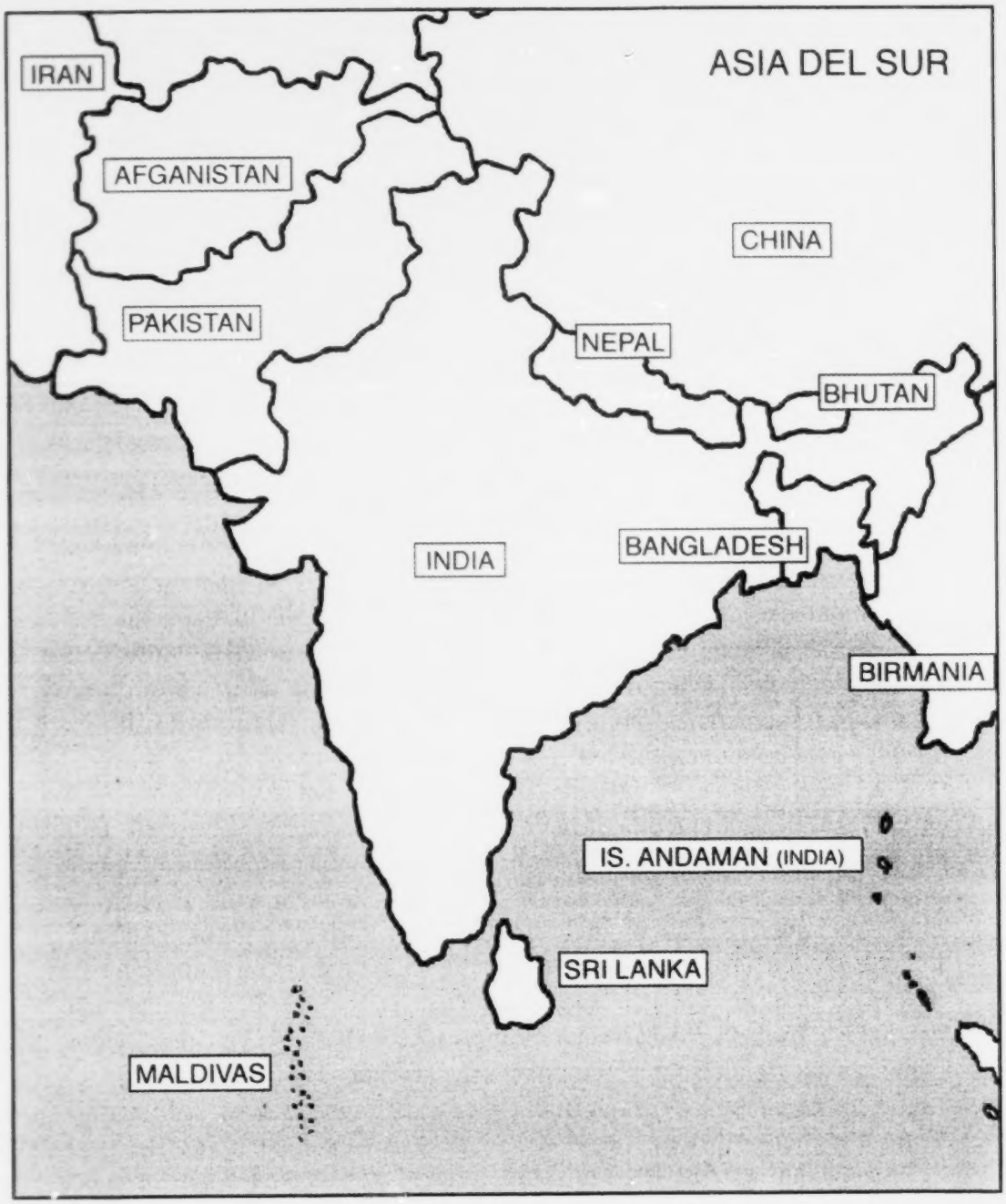
El arresto de Muivah fue inmediatamente seguido por insinuantes historias sobre los *nagas* y Muivah en los medios de comunicación nacionales y regionales en un intento obvio por crear una atmósfera hostil hacia el pueblo *naga* y a favor de una larga detención de Muivah. Se cree que los agentes gubernamentales indios están detrás de esto. Además, según la información recientemente obtenida de fuentes confiables es también muy probable que los agentes gubernamentales indios también habían tenido algo que ver en el arresto de Th. Muivah. Y hasta ahora, las solicitudes de los intelectuales indios y comunidades de ONGs al Gobierno de India para que intervenga para la pronta liberación de Muivah, han sido desatendidos.

El propósito y las circunstancias que llevaron a Muivah a viajar bajo un nombre supuesto han recibido la simpatía y el apoyo de las humano corrige las comunidades de ONGs de derechos humanos en Thailandia. Los líderes y activistas se han reunido y organizado la defensa legal y social de Muivah. En la última audiencia del caso de Muivah el 25 de mayo de 2000, varios observadores internacionales incluyendo al Senador John Nimrod de Illinois, EE.UU. estuvieron presentes en el tribunal.

Las organizaciones de la sociedad civil *naga* se han reunido para iniciar un diálogo pueblo a pueblo en India traer las ideas frescas al proceso de la paz. Un importante grupo de *nagas* traída de todas las profesiones y condiciones sociales hizo una "Jornada de Conciencia" a Delhi el 29 de enero de 2000 e interactuó con las comunidades de ONG y otros miembros del público durante tres días. Desde entonces han tenido lugar interacciones de pequeños grupos en varias ciudades indias y se planean varias otras. El Movimiento de los Pueblos Naga por los Derechos Humanos (NPMHR), y The Other Media, Delhi son los organizadores principales de esta iniciativa.

Notas

1 Nagalim quiere decir "Naga la tierra ancestral" y es el término que los *nagas* acordaron usar al referirse a la tierra en que ellos han vivido tradicionalmente. Abarca, por consiguiente, todas las áreas habitadas por los *naga*, tanto en India como en Birmania y reemplaza el término anteriormente usado "Nagaland", que también es el nombre dado por el gobierno indio al Estado de la Unión que creó en una parte limitada de Nagalim en 1963.



Países tratados en esta publicación: Bangladesh, Nepal, India y Sri Lanka

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BANGLADESH

Chittagong Hill Tracts

Un acuerdo de paz firmado en diciembre de 1997 entre el gobierno y el Jana Samhati Samiti (JSS)[1] ha sido fundamental en gran medida para la normalización de la situación en Chittagong Hill Tracts (CHT). Sin embargo, dos décadas de matanzas masivas, violaciones, detenciones ilegales y tortura han dejado su marca en los indígenas *jumma*, y existe una urgente necesidad de medidas efectivas para desarrollar confianza en la sinceridad del compromiso del gobierno con el proceso de paz.

Un elemento clave en este proceso es la continua presencia de las fuerzas armadas. Esto está en directa contravención con el acuerdo de 1997 que estipula que todos los campamentos del ejército sean retirados de Hill Tracts con la excepción de la fuerza de seguridad de la frontera (BDDR) y los seis establecimientos permanentes del ejército (uno en cada una de las tres sedes de distritos y en Alikadam, Dighinal y Ruma). Se estima que hay 500 campamentos "temporarios" del ejército en CHT, de los cuales 32 han sido retirados. Los otros permanecen y no existen indicios de cuando también serán retirados de CHT. El ejército continúa ejerciendo un considerable poder e influencia en Hill Tracts, incluyendo en la administración civil – un área fuera del ámbito de las fuerzas armadas en la mayoría de los países democráticos.

La orden ejecutiva de 1973 que provee la base formal para la militarización de CHT permanece vigente y no ha sido anulada ni revocada. Si se tiene en consideración el hecho de que Hill Tracts es un área de 5.089 millas cuadradas (aprox. 13.295 km. cuadrados), con 974.445 habitantes, de los cuales 536.231 son indígenas jumma (censo de 1994), la decisión política de mantener un gran número de fuerzas militares y paramilitares en Hill Tracts dada las actuales circunstancias, parece excesiva e injustificable bajo ninguna circunstancia y especialmente en un país empobrecido como Bangladesh con problemas básicos como falta de agua potable, desnutrición, alta mortalidad infantil y analfabetismo. Esto también indica el énfasis puesto en el uso de la fuerza institucionalizada en CHT y continúa echando sombra sobre el proceso de paz que existe actualmente en la región.

718

Todavía no se han retirado: Campamento del ejército ubicado frente a los arrozales de una comunidad Chakma, enero de 1999 (Foto: Archivo de IWGIA).

Implementación del Acuerdo de Paz

Han pasado más de dos años desde que el Acuerdo de Paz fue firmado, y a pesar de la formación de un comité para su implementación, el proceso de implementación ha sido marcadamente lento. En realidad, el JSS describe al proceso como habiendo llegado a una detención en su informe sobre la implementación del acuerdo de CHT (febrero del 2000).

La fortaleza más importante del acuerdo está en establecer las modalidades para la autonomía indígena en CHT a través de un enfoque triple que comprende un ministerio a nivel central, un consejo a nivel regional y tres consejos a nivel de distrito. Sin embargo, aunque estos organismos están actualmente operando, en términos reales, sus poderes y autoridad están circunstanciadas y su participación en la esfera de toma de decisión y confección de política siguen limitadas. Alrededor del año pasado, se han tomado algunas medidas legislativas para implementar el acuerdo, pero la legislación correspondiente todavía no está en su lugar y el acuerdo sigue siendo

implementado sólo de nombre, sin medidas concretas para poner en práctica sus previsiones.

Consejos de Distritos de CHT. El acuerdo de paz fortalece la base de poder de los tres Consejos de Distritos (HDC) que fueron formados en 1989 y aumenta substancialmente los temas bajo su autoridad. Sin embargo, áreas claves bajo su control y administración como tierra y recursos naturales, protección ambiental, desarrollo, salud, ley y orden, pesca, turismo, comercio e industria, negocios y cultivos jhum (agricultura swidden), entre otros, no han sido transferidos a los HDCs y siguen en manos de funcionarios del gobierno, es decir, el Comisionado Adjunto, etc. También hay informes de enajenación de tierras por las autoridades del distrito en clara violación de las Leyes HDC (tal como fueron enmendadas) que requieren consulta con el HDC pertinente y su consentimiento antes de que se pueda realizar cualquier adquisición o transferencia de tierras.

Consejo Regional. El acuerdo prevé el establecimiento de un Consejo Regional con autoridad coordinante y supervisora sobre los tres Consejos de Distrito, la policía y la administración civil, la Junta de Desarrollo de CHT, las ONGs activas en CHT, la ayuda para desastres y la industria pesada. El CR tiene un importante rol en materias legislativas: el derecho a ser consultado antes de que cualquier ley sea adoptada que pueda afectar a CHT:

En mayo de 1999, se formó un consejo regional interino con el líder de JSS, Sr. Shantu Larma como presidente. Aunque actualmente está funcionando, el CR no ha sido plenamente capacitado y muchos de sus poderes y funciones siguen en manos de la administración de los distritos, incluyendo asuntos de tierra y desarrollo. Por ejemplo, la Junta de Desarrollo de CHT que es la más importante institución de desarrollo de la región con pleno control y administración sobre todos los proyectos de desarrollo, incluyendo financiación, permanece fuera de la autoridad del CR.

Ministerio de Asuntos de CHT. Tal como fue especificado en el acuerdo, se estableció en 1998 un ministerio para asuntos de CHT (MICHITA), y el miembro parlamentario de Khagrachari, Sr. Kalpa Ranjan Chakma es el ministro. El ministerio tiene la supervisión general y la autoridad ejecutiva sobre los organismos regionales y de distrito, incluyendo la adjudicación de fondos. Tiene que funcionar con la participación de un comité asesor compuesto de los tres Rajaes tradicionales, representante del presidente del CR, los tres presidentes de los Consejos de Distrito y tres representantes no-jumma. Sin

720

embargo, tres años después del establecimiento del minist4rio, el comité asesor todavía no ha sido formado.

Comisión de Tierras. El acuerdo también prevé el establecimiento de una comisión de tierras para adjudicar demandas de tierra bajo la dirección de un juez retirado. Aunque la tierra es uno de los temas más cruciales en CHT, y muchos de los temas pendientes están relacionados con esta cuestión crucial, el gobierno todavía no ha establecido esta comisión.

Además de estas cuestiones, otra grave causa de preocupación es la disputa interna entre el JSS y el Frente Democrático de los Pueblos Unidos (UPDF). El UPDF no cree que el acuerdo de paz cumple con las demandas de los indígenas jumma de autodeterminación y plena autonomía regional y ha estado comprometido en actividades contra el acuerdo incluyendo manifestaciones. No obstante, la rivalidad entre los dos partidos ha acelerado en el año pasado y se informa que tanto el JSS como el UPDF han estado involucrados en matanzas ilegales, secuestros, intimidación y hostigamiento de los miembros del partido rival. A comienzos de este año, hubo noticias de un acuerdo entre los dos partidos y un fin a la violencia. Sin embargo, siguen habiendo informes de incidentes esporádicos que indican que la situación todavía no ha sido resuelta totalmente.

Esta lucha interpartidaria es particularmente seria cuando es contextualizada en conjunción con el principal partido opositor, el Partido Nacionalista de Bangladesh, claramente antagónico con el acuerdo y dispuesto a anularlo sí y cuando retorna al poder. Esto es de alguna manera irónico en las circunstancias, tal como puede recordarse fue el BNP que inició la ronda de conversaciones con el JSS que culminaron en el acuerdo de 1997.

Tierras y bosques

La tierra es un tema crucial en Hill Tracts. Los pueblos indígenas han sido desposeídos de sus tierras mediante diversos métodos, incluyendo proyectos de desarrollo como la Represa Kaptai que inundó el 40% de la tierra arable de CHT y causó el desplazamiento de unas 100.000 personas, o la política de asentamiento que trajo a más de 450.000 personas no-indígenas a CHT y la transferencia de tierras indígenas a foráneos. Hasta hoy, el proceso de enajenación y desposesión de la tierra continúa, a pesar de previsiones específicas en el acuerdo de paz y la legislación relacionada al mismo, prohibiendo la transferencia, venta y adquisición de cualquier tierra en CHT sin consulta y consentimiento de los Consejos de Distrito.

721

En este contexto, la práctica de crear y/o extender "reservas forestales" por notificación gubernamental, prohibiendo así a los pueblos indígenas entrar y usar el bosque y sus recursos, continúa. Justificada por el gobierno como una medida de protección ambiental, este ejercicio crea plantaciones de caucho, teca y otras especies que tienen un mercado pronto y son, por lo tanto, una fuente atractiva y fácil de ingreso para el gobierno. Sin embargo, los costos sociales y económicos de los pueblos indígenas son inmensurables ya que el bosque es frecuentemente su principal fuente de ingreso monetario en adición de proveer las necesidades cotidianas. Muchas personas viven también en estas áreas, frecuentemente como resultado del desplazamiento. Los pueblos indígenas enfrentar el aprisionamiento y/o penalidades una vez que el bosque ha sido clasificado como "reservado", la entrada, el uso y la extracción de sus recursos se convierte en ilegal y es punible con encarcelamiento y/o multa.

En 1992, 1996 y 1998 fueron emitidas una serie de esas notificaciones designando a un área de casi 220.000 acres como "reservas forestales". Miles de personas son afectadas por esta orden y fue formado el Comité para la Protección del Bosque y los Derechos a la Tierra en defensa de sus derechos. Una delegación se reunió con el ministro de medio ambiente y bosques, Sajeda Chowdhury, en agosto de 1999 y exigió que las órdenes fueran revocadas. A pesar de sus aseguraciones de que los programas de forestación del gobierno no serían realizados si esto incluyera la expulsión de personas, el tema no ha sido resuelto y la notificaciones siguen vigentes. También es importante recordar que los bosques reservados no caen bajo el manejo y el control del Consejo Regional o los Consejos de Distrito, siendo específicamente excluidos de su autoridad como son otras áreas estratégicas como el Lago Kaptai, la estación satelital, las tierras "estatales", etc.

La explotación maderera ilegal es otra importante fuente de preocupaciones en CHT. Sigue estando incontrolada y los camiones que acarrean madera de CHT son una visión común. La madera es clasificada como "leña" bajo un permiso especial, permitiendo así ser sacada de CHT porque la venta de leña para propósitos domésticos es permitida. De esta manera, miles de metros cúbicos de madera son sacados de CHT. Esto sólo puede ocurrir con la complicidad de funcionarios corruptos del departamento forestal y la policía y fuerzas de seguridad – descrita como "una operación estilo mafia" por un funcionario local. La degradación del medio ambiente en CHT ha alcanzando proporciones alarmantes y ha causado que el gobierno adopte un plan de manejo ambiental con el apoyo del PNUD, el cual está actualmente en marcha.

722

En otro acontecimiento, un periódico nacional informó que tierras indígenas en Bandarban y Khagrachari está siendo arrendadas por el gobierno a personas influyentes no residentes de CHT, muchas de los cuales tienen vínculos estrechos con el gobierno, para plantaciones de caucho (27 de octubre de 1999, Prathom Alo, Dhaka). Estas tierras estaban en uso y ocupadas por agricultores indígenas, que ahora carecen de tierras y enfrentan la pobreza y dificultades como resultado. También está en contravención directa con el Acuerdo y su legislación relacionada. Otro tema de preocupación son las actividades de las compañías internacionales incluyendo la United Meridien Corporartion que hacen prospección de petróleo y gas en CHT. El gobierno está ansioso por explotar esta fuente potencial de ingresos y la minería también va a comenzar dentro de poco. Dentro de este contexto es importante mencionar que los derechos de los pueblos indígenas a sus tierras ancestrales tienen que ser tomados en cuenta, especialmente en vista al Acuerdo de Paz de 1997 y la legislación relacionada al mismo. El acuerdo también prevé el reparto de beneficios y regalías a ser pagados a los Consejos de Distrito por los recursos minerales.

Refugiados y desplazados internos

Entre 1995-97 aproximadamente 70.000 refugiados jumma que habían huido a países vecinos para escapar a la violencia en CHT, retornaron a casa dentro del marco de un acuerdo negociado entre el Gobierno de Bangladesh y los refugiados jumma (9 de marzo de 1998 GOB- Acuerdo de la Asociación para el Bienestar de los Refugiados Jumma). Aunque muchos han recibido sus tierras de vuelta, algunos han sido incapaces de reclamarlas porque estas tierras están ahora en posesión de familias colonas de las llanuras que vinieron a CHT a mediados de los 70, tal como se mencionó antes.

El gobierno continúa proveyendo raciones y otra asistencia a los colonos, muchos de los cuales estuvieron activamente involucrados en la comisión de violaciones graves de derechos humanos contra los indígenas jumma, en colaboración con el ejército y las fuerzas paramilitares – un factor contribuyente a la tensión y malestar en la región. Muchas familias colonas han indicado su disposición a abandonar CHT y asentarse en otra parte del país siempre y cuando se les den incentivos adecuados y beneficios (como fue el caso cuando fueron traídos a CHT a mediados de los años 70). La Comunidad Europea ha ofrecido su ayuda , incluyendo asistencia financiera, para reasentar a los colonos en otra parte voluntariamente. Sin embargo, el gobierno ha sido reacio a aceptar esta oferta.

La situación de las miles de personas que han sido desplazadas durante el conflicto sigue siendo grave y siguen habiendo informes de escasez de alimentos en algunas áreas, junto con aparición de malaria y disentería. Como se estipuló en el Acuerdo, las personas desplazadas internamente tienen que ser rehabilitadas y se ha creado un equipo de trabajo para este propósito. El equipo de trabajo ha hecho una lista de unas 130.472 familias como internamente desplazadas. Sin embargo, esta lista ha originado controversias ya que 48.452 familias colonas no-indígenas han sido incluidas. El JSS cree que sólo las familias indígenas que han sido desplazadas entre 1975 y 1992 deben ser incluidas en esta lista según el Acuerdo, hacer lo contrario tendría serias repercusiones sobre los derechos a la tierra de los indígenas jumma, muchos de los cuales han sido desplazados principalmente debido al mismo programa de colonización. Como lo aclaró un representante del JSS en al sesión de 1999 del Grupo de Trabajo de la ONU sobre Poblaciones Indígenas: "Esto puede conducir al reconocimiento legal de estos colonos como residentes de CHT y propietarios legales de tierras que legalmente pertenecen a los pueblos indígenas" [2]

Violaciones de derechos humanos

En un triste recuerdo de tiempos anteriores, el 16 de octubre de 1999, hubo un ataque de represalia sobre los indígenas jumma en el pueblo mercantil de Babuchara Bazaar, Dighinala Thana en el Distrito de Khagrachari Hill .En lo que desgraciadamente se ha convertido en un escenario común, una mujer jumma fue hostigada por un miembro de las fuerzas armadas. Cuando algunos estudiantes acudieron a su ayuda, un contingente del ejército invadió el mercado y, ayudados por unos 150 colonos bengalíes, atacaron a los jumma desarmados. Tres personas resultaron muertas y unas 75 personas fueron heridas. Los colonos continuaron su ataque de represalia e incendiaron algunas casas vecinas, allanaron el templo budista Benuban, destruyeron algunas estatuas de Buda y atacaron algunos monjes budistas [3]. El gobierno ha establecido una investigación sobre el incidente pero todavía no se ha publicado ningún informe. Dado el pasado registro del gobierno en la realización de investigaciones pero sin publicar las conclusiones – como fue el caso en la investigación del secuestro de Kalpana Chakma, un líder estudiantil cuyo paradero permanece desconocido- los indígenas están algo escépticos sobre la investigación de Babuchara. Es de esperar que el gobierno realice una investigación plena y justa del incidente y lleve a los responsables ante la justicia.

Conclusión

El acuerdo de 1997 ha iniciado un proceso de paz en CHT y en 1999, Sheickh Hasina recibió el premio de la paz de la UNESCO por su papel en aceptar el Acuerdo de Paz. Es de esperar que esto movilice al gobierno y a sus agencias para que tomen las medidas necesarias para asegurar la plena implementación del acuerdo de paz y llegar a una paz sustentable y duradera en la región de Hill Tracts.

Notas

1 El JSS es el partido político indígena que ha estado liderando la lucha de los *jummas* por la autonomía regional durante los pasados veinte años o más. El acuerdo de 1997 es la culminación de numerosas ruedas de negociación entre los sucesivos gobiernos y el JSS.

2 Declaración de Rupayan Dewan, Miembro de Consejo Regional de CHT, ONU WGIP, julio de 1999, Ginebra.

3 Ver Informe de Amnesty International sobre Derechos Humanos en Chittagong Hill Tracts (ASA 13/01/00) por detalles.

NEPAL

Se aprobó la Lista de los 61 Pueblos Indígenas/Nacionalidades

Los pueblos *aadivasi/janajati* de Nepal han sostenido fuertemente la posición de que la identidad como pueblos indígenas es parte fundamental de su lucha por la autonomía y autodeterminación. Por lo tanto, los pueblos indígenas han estado demandando el reconocimiento de sus identidades y luchando por las mismas. Formalmente, la lista de las 61comunidades janajati fue presentada al gabinete para su aprobación en 1995. Hubo una fuerte resistencia de parte de los conservadores, políticos, burócratas, fundamentalistas hindúes, académicos de la sociedad dominante y los medios de difusión prohindúes al plantear el tema de la definición. Pero a través de un continuo cabildeo y sensibilización del público general y el gobierno, los pueblos indígenas lograron ser reconocidos. El Gobierno de Nepal de Su Majestad, por decisión del gabinete de ministros aprobó la lista de las 61 nacionalidades el 16 de abril de 1999. Está constituida tal como sigue: *a) Montaña: Barah Gaunle, Bhutia, Byansi, Chhairotan, Chintan, Dolpo, Larke, Lhomi, Lhopa, Manamge, Marphali, Mugali, Siyar, Shepa, Syantan, Tangbe, Thakali, Thhintan, Thundam, Topkegola, Wallung; b) Colinas: Bankaria, Baramo, Bhujel, Chepang, Chhantyal, Dura, Fri, Gurung, Hayu, Hyolmo, Jirel, Kushbadia, Kusunda, Lepcha, Limbu, Magar, Newar, Pahari, Rai, Sunuwar,*

Surel, Tamang, Thami: c) Terai interior: Bote, Danuwar, Darai, Kumal, Manjhi, Raji, Raute: and d) Terai: Dhanuk, Dhimal, Gangai, Jhangad, Kisan, Meche, Rajbanshi, Satar, Tajpuria, yTharu.

Continúa la lucha por los derechos a la lengua

Nepal es un país multilingüe. Hay, de acuerdo al Instituto Lingüístico de Verano, 125 lenguas que se hablan en las diversas comunidades. Entre ellas, las lenguas de Kusunda, Dura y Bhujel han desaparecido completamente y unas 20 lenguas están en proceso de extinción. Ellos sienten que sus lenguas son los vehículos de transmisión de sus identidades y culturas, los cuales están en peligro de perderse sin ninguna esperanza de recuperación. Es en este mismo contexto que las demandas de varias comunidades lingüísticas, en la Ciudad Metropolitana de Katmandú el 25 de agosto de 1997 decidió usar la Lengua Nepal Bhasha y un Comité de Desarrollo del Distrito Dhanusha el 18 de noviembre de 1997 y la Municipalidad de Rajbiraj el 27 de noviembre la lengua Mathili como su lengua oficial además de la lengua prevaleciente nepalí (*khas*). Pero aunque la constitución de Nepal reconoce todas las lenguas habladas como lenguas maternas en diversas partes del país como lenguas nacionales, y aunque la Ley de Autonomía Local 2055 delega el derecho a los organismos locales de los llamados gobiernos autónomos, a usar, preservar y promover las lenguas locales, la Suprema Corte de Nepal emitió un *certiorari* el 1 de junio de 1999 para que no se usen las lenguas locales en las oficinas, declarando que las decisiones de la Ciudad Metropolitana de Katmandú, la Municipalidad de Rajbiraj y el Comité de Desarrollo del Distrito de Dhanusha de usarlos en sus oficinas eran inconstitucionales e ilegales. El veredicto de la corte planteó una cuestión seria sobre la jurisdicción de las lenguas maternas reconocidas como lenguas nacionales y dejó a diversas comunidades lingüísticas del país la única acción de cuestionar las previsiones constitucionales relativas a la lengua. Por lo tanto, las comunidades lingüísticas (pueblos indígenas) organizaron en protesta contra el veredicto de la corte, manifestaciones, despliegue de pancartas y carteles, mítines masivos, mítines de esquina, procesiones de linternas a la luz del día, procesión de instrumentos musicales, piquetes, marchando por toda la ciudad con cintas adhesivas negras en la boca en todo el país y finalmente la *"huelga general de todo el valle de Katmandú"* el 15 de septiembre de 1999 (30 de Bhadra del 2056). Subsiguientemente la Federación de Nacionalidades de Nepal (NEFEN) organizó la primera "Conferencia Nacional sobre Derechos Lingüísticos" con la ayuda del Grupo Nacional de Trabajo sobre Asuntos Indígenas (IWGIA) desde el 16 al 17 de marzo del 2000 (3 y 4 de Chaira del 2056), donde 44

comunidades indígenas y Organizaciones de Derechos Humanos se reunieron en apoyo de la causa de la lucha por la lengua. Aprobaron un "Declaración Nacional sobre los Derechos Lingüísticos" basada en el principio de que "ninguna lengua es demasiado pequeña o grande, son todas iguales, y todas las comunidades lingüísticas tienen derechos equivalentes". Además, la conferencia rehusó aceptar la Decisión de la Suprema Corte sobre Lenguas y formó un "Comité de Lenguas Coordinador Monitoreador " para seguir los desarrollos. Desde entonces, el 1 de junio (19 Jesth) será considerado como el *Día Negro de la Corte Suprema*.

Más pueblos indígenas organizados

Hay muchas comunidades indígenas cuya población total puede no sobrepasar de un mil. Estas comunidades pequeñas se han organizado ahora. La organizaciones fundadas son: Kisan Community Association, Rong Sejung Thi Lepcha Associaton, Nepal Santhal Association, Bhrahmu Association, Mudiyar Association, Bote Association, Singsa Welfare Association y Tajpuriya Society Council y Bhujel Association. Se cree que las poblaciones de Kisan, Bote, Brahmu, Lepcha, Mudiyari, Singsa son menos de 500 personas. Estas nuevas organizaciones, están unidas a la Federación de Nacionalidades de Nepal, cuyos miembros han aumentado en 31 en 1999.

Atraso de la Comisión de Derechos Humanos

Desde el Movimiento de los Pueblos de 1990 y la formulación de la Nueva Constitución para legitimar el sistema parlamentario, Nepal ha alegado ser un país democrático y comprometido con los derechos humanos. El parlamento aprobó una Ley de Comisión de Derechos Humanos –2053- en 1997. Sin embargo, la ley es muy débil y no se otorga ningún poder a la propuesta Comisión de para cuestionar todos los casos. No parece ser más que un decorado para la comunidad internacional. Y la Comisión de Derechos Humanos ni siquiera se ha formado todavía. A pesar de la presión creada por las organizaciones de derechos humanos y las organizaciones indígenas el gobierno parece no estar dispuesto todavía a hacerlo. Por lo tanto, los activistas de los derechos humanos y los pueblos indígenas continúan su agitación para mantener la presión sobre el gobierno para que forme la Comisión de Derechos Humanos.

Violaciones de los derechos humanos

Los pueblos indígenas enfrentan amenazas crecientes a su seguridad y paz en sus territorios. Desde los pasados cuatro años, hay grupos comprometidos en

727

los que llaman una Guerra Popular armada contra el gobierno. Por lo tanto, los territorios de los pueblos indígenas son militarizados y ocupados por grupos paramilitares armados o la Policía Danga. Recientemente, una aldea entera fue incendiada en el oeste por la policía y tres niños murieron en el fuego. Cientos resultaron herido, los animales fueron muertos y las propiedades de los aldeanos fueron dañadas y destruidas. En nombre de la seguridad, ley y orden, miles de personas han sido muertas y cientos han desaparecido en custodia policial. Un líder indígena de NEFEN fue puesto en prisión sin juicio y condenado a unos nueve meses, a pesar de tres órdenes de la corte para su liberación de la cárcel.

Campaña por enmiendas constitucionales

Los pueblos indígenas están ahora en campaña para enmendar los artículos de la Constitución, leyes y subleyes que tienen impacto sobre ellos. Una consulta nacional apoyada por Minorities Groups Rights International fue organizada para sensibilizar a los partidos políticos, legisladores e intelectuales y los diversos sectores de la sociedad. También se realizó una consulta en diferentes regiones. La consulta identificó que 18 artículos de la constitución, leyes especiales y algunas de las leyes de derecho común están afectando negativamente los derechos de los pueblos indígenas/nacionalidades. Necesitan ser enmendadas y necesita incluirse una serie de nueva previsiones.

El gobierno no formó una Academia Nacional para las Nacionalidades demandada por los pueblos indígenas/nacionalidades, ya que la ley necesaria no fue aprobada por el Parlamento. El gobierno se había comprometido a hacerlo en 1999 pero no presentó la ley en la última sesión del Parlamento. La ley para formas la Academia Nacional (Rastriya Janajati Utthan Pratisthan) fue arrojada en el agujero sin fondo de los miembros parlamentarios. Es valioso recordar, que durante los últimos seis años, cada uno de los siete gobiernos, ya sea solos o en coalición, prometieron crear la Academia Nacional para el mejoramiento de las Nacionalidades. Pero todos ellos se derrumbaron sin hacerlo.

Trabajadores Esclavos Indígenas Reclaman por sus Derechos

En 1926 la esclavitud fue declarada ilegal en Nepal, y finalmente, después de la introducción de la democracia en 1991, el trabajo en régimen de esclavitud fue abolido. Desdichadamente la esclavitud es aún una práctica común, especialmente en los remotos distritos de Nepal. Numerosas organizaciones anti esclavitud han estimado el número de trabajadores esclavos en el suroeste de Nepal entre 50,000 y 70,000.

728

En el suroeste de Nepal, los trabajadores esclavos son llamados kamaiyas, y probablemente se encuentran entre las personas más pobres del mundo. Casi todos los kamaiyas pertenecen a un pueblo indígena, los *tharu*, quienes por generaciones han sido víctimas del sistema de esclavitud. Numerosas familias kamaiya han sido esclavizadas hasta por siete generaciones. La opresión se intensificó cuando los habitantes de las montañas, también llamados los *terai*, se fueron hacia el sur a las tierras bajas, y adquirieron, legalmente o no, grandes áreas de tierras fértiles. Esto dejó a los *tharu* sin tierra y los forzó a transformarse en kamaiyas.

La forma en que funciona el sistema kamaiya normalmente es que una familia que ha pedido dinero prestado a un terrateniente es obligada a pagarla en forma de trabajo familiar. Comúnmente los salarios varían entre 10 centavos y medio dólar americano por un día de trabajo de toda la familia, pagado en arroz. Esto significa que es imposible que la familia pague la deuda o que tenga suficiente dinero o arroz para el uso diario, con lo cual se ven obligados a pedir más dinero. La economía familiar es especialmente vulnerable en los tiempos de enfermedad o durante los festivales religiosos. Una típica familia kamaiya trabaja desde las 5 a.m. hasta las 8 p.m., lo que significa que aunque ellos tengan un pequeño pedazo de tierra para cultivar, no tienen tiempo para hacerlo. Sus niños no tienen la posibilidad de ir a la escuela porque deben atender el ganado todo el día. En Nepal existen, dependiendo del distrito, salarios mínimos de entre 75 centavos y un dólar; aún así este salario mínimo no ha sido aplicado a la gente más pobre.

A pesar de todo esto los *tharu* están luchando por sus derechos. El 1ero de mayo de este año, 19 kamaiyas presentaron el cargo de que su terrateniente no había pagado sus salarios por más de un año, y que sus jornales de aproximadamente 12 centavos eran demasiado chicos comparados con los salarios mínimos fijados por la ley. El terrateniente, un ex ministro de educación de Nepal, respondió dejando que kamaiyas de otros terratenientes fueran azotados y que las casas de cuatro familias kamaiya fueran derrumbadas. Es un dato comprobado que Shiv Raj Panth, el terrateniente - quien accidentalmente era un ex ministro de forestación también – por esta acción adquirió por lo menos 250 hectáreas extra de tierra, donde sus 125 kamaiyas trabajan hoy.

Luego de este incidente, 20 kamaiyas se dirigieron al alcalde de la aldea Geta, en el distrito Kailali, y presentaron su protesta. Consecuentemente el alcalde, quien conoce muy bien la ley, programó una reunión con el terrateniente, los kamaiyas y 8 organizaciones locales anti-esclavitud en la alcaldía, el 10 de mayo. Mientras tanto la noticia se divulgó por todo el país: todos los periódicos principales tenían las noticias en la primera página, y la Radio

BBC Nepal transmitió numerosas noticias al respecto. Nepal TV y numerosos periodistas también cubrieron la reunión. Desdichadamente el terrateniente no concurrió a la reunión, pero el alcalde, los kamaiyas y las organizaciones estuvieron de acuerdo en respaldar a los kamaiyas formando una comisión cuyo cometido sería registrar el caso en el distrito.

Un gran grupo de 100 kamaiyas y activistas concurrió a las oficinas para registrar el caso. De todos modos, fueron recibidos con muy mala voluntad. Hay indicios de que el terrateniente y numerosos empleados gubernamentales, presionaron a la oficina del distrito para rechazar a los kamaiyas y sus organizaciones. La policía estaba en el lugar y procedió a destruir una película de una cámara y a amenazar a numerosos miembros de la organización con arrestos.

El 14 de mayo tuvieron lugar grandes demostraciones con la participación de 7,000 kamaiyas y campesinos, algunos de ellos también de los dos distritos vecinos. Dilli Chaudhary, el presidente de BASE (una organización *tharu* con 30,000 miembros) anunció que los manifestantes se mantendrían en su lugar hasta que el caso fuera registrado.

Los comités de BASE de las aldeas, como también algunos grupos de mujeres, empezaron a juntar arroz para que comieran los manifestantes.

Así es como está el caso en la actualidad: una ley que no se aplica, un administrador que incita y ayuda a la explotación de los pobres por los ricos, y una fuerza policial que está pronta para reprimir a aquellos que quieran presentar una queja. Así como en muchas otras naciones del mundo, en Nepal, también, los derechos humanos son débiles. Lo inusual de Nepal es que los medios son libres y sin censura, y que actualmente escriben sobre la ilegalidad que está teniendo lugar. Lo triste es que al gobierno Nepalés, aparentemente, no le importa mucho.

INDIA

Uttar Pradesh

Los van gujjar

El propuesto Parque Nacional Rajaji, ubicado al pie de los Himalayas en el noroeste de Uttar Pradesh, es la primera área protegida de la India para la cual ha sido preparado un plan de Manejo forestal comunitario. Esto sigue la amplia aceptación, incluso por el Gobierno de la India, de que la actual legislación para la conservación de los bosque y su fauna no ha probado ser exitosa.

Un Ministro Forestal y del Medio Ambiente de cada uno de los dos sucesivos gobiernos han sido registrados en la Cámara Alta del Parlamento por informar que esta legislación está en proceso de ser cambiada. Los cambios significarán que los pueblos habitantes del bosque y otros que son dependientes del producto forestal pueden ser incluidos en el manejo y protección de los bosques.

El plan CFM está basado en sistemas tradicionales sustentables de manejo y hacen que el uso de los van gujjar sea un conocimiento tradicional ancestral. De acuerdo al plan CFM los gujjar jugarán una parte central en el manejo del bosque y serán responsables de regenerar el bosque, protegiendo el área central y cuidando contra la caza furtiva y el contrabando de madera de una manera ambiental y económicamente sustentable. Los derechos de otras comunidades que viven en la periferia de los bosques son también respetados en el plan, que prevé la existencia de una comité de productos forestales menores en su estructura. Este comité participaría en el establecimiento de normas para compartir los productos no-madereros entre ellos. El Departamento Forestal, la policía y el sector ONGs participarían solamente en la cúspide de la estructura. Monitorearían el programa y prestarían apoyo en la ejecución de las políticas decididas por los mismos van gujjar. Los van gujjar consideran al plan como una alternativa viable para encarar su inseguridad, ya que brindaría control sobre la tierra que usan y un marco productivo para su relación con el Departamento Forestal.

El concepto del plan de CFM ha hecho que los funcionarios forestales se desesperen, hasta la fecha han tenido un poder incontrolable sobre las comunidades habitantes de los bosques. En el caso del propuesto Parque Nacional Rajaji habían lanzado un reino de terror contra los van gujjar. Asistido por RLEK, los van gujjar se dirigieron a la Comisión de Derechos Humanos (NHRC) para obtener una reparación. El marzo de 1999, el NHRC declaró que los van gujjar no podían ser privados de sus derechos de pastoreo y de podar o ser obligados a abandonar el bosque por el Departamento Forestal "hasta que sus derechos sean legalmente determinado de acuerdo con la ley". Esta decisión es la primera que trata el debate medio ambiente-desarrollo enfrentando a los gobiernos central y estatales y tendrá consecuencias de largo alcance para otros habitantes tribales y habitantes del bosque afectados por la creación de Parques Nacionales en todo el país.

Esta sentencia fundamental ha dado impulso al plan de CFM debido especialmente al reciente reconocimiento en círculos oficiales que los enfoques existentes no están funcionando. El 9 y 10 de abril de 1999 una reunión de comité de santuario fue celebrada en Mohund, en las afueras del parque, en la cual participaron los van gujjar, los medios de difusión y representantes de

731

las ONGs. Los funcionarios forestales, sintiendo que su monopolio sobre el bosque sería quebrantado pronto por el plan CFM, no participaron.

A partir de esta reunión, los funcionarios forestales han comenzado más ataques contra los gujjar y los voluntarios del RLEK. En un caso, le sacaron un aparato de radio a un van gujjar, Moosa Pradhan, que estaba trabajando como guardia forestal honorario. Más de cien van gujjar han recibido aparatos de radio de RLEK para establecer una Red de Comunicación Radial para el proyecto de Comercialización de Leche y para promoverla práctica de Manejo Forestal Comunitario. Los gujjar han sido entrenados para usar el equipo para informar de incendios forestales, caza furtiva, corte ilegal de árboles y epidemias que atacan a la fauna local a otros miembros de la comunidad, al RLEK y a la policía.

El oficial lo tomó en un área, que no es ni un santuario ni un Parque Nacional. No dio ninguna explicación sobre por qué lo estaba confiscando y entregó al gujjar un recibo en blanco. RLEK presentó el caso en la Corte del Magistrado Judicial en Jefe, Dehra Dun, contra el oficial y el Director del Parque Nacional propuesto. El fiscal argumentó que el aparato de radio estaba siendo usado para ayudar a contrabandistas a matar elefantes y otros animales salvajes y, por lo tanto, podía ser considerado un arma. Sin embargo, el magistrado no encontró fuerza en este argumento y declaró que el Director del parque había emitido instrucciones ilegales a su personal de confiscar aparatos de radio en un intento de hostigar a los gujjar.

La sentencia observó que la fiscalía no tenía ninguna consideración por la ley de la tierra y que la posesión de aparatos de radio no era ninguna ofensa en ninguna sección de la Ley de Protección de la Fauna de 1972. El magistrado ordenó al estado de Uttar Pradesh a devolver inmediatamente la radio a RLEK y sostuvo que el departamento forestal no estaba autorizado a confiscar el aparato de radio otra vez. En cuanto a la apropiación ilegal según la Ley de Protección de la Fauna (es decir, no de un arma) por cualquier funcionario de un área protegida o propuesta para protección es punible por ley con una penalidad de seis meses de prisión y/o una multa monetario. En base a este orden, RLEK ha acusado a las personas concernientes de apropiación ilegal.

Seminario Internacional sobre Derechos Humanos de Comunidades Marginadas y Tribales

Entre el 1 y 3 de octubre de 1999 tuvo lugar el Seminario Internacional sobre Derechos Humanos de Comunidades Marginadas y Tribales: "El papel de las ONGs y la Comisión Nacional de Derechos Humanos en la Promoción de la Cultura de los Derechos Humanos", en Dehra Dun. El seminario fue organi-

zado por RLEK, la Comisión Nacional de Derechos Humanos (NHRC) e IWGIA. Tres ex Jefes de Justicia de la India y tres ex Jueces de la Suprema Corte también la apoyaron.

En el seminario participaron representantes de comunidades indígenas y tribales, incluyendo van gujjar y *jaunsari* y numerosas personalidades eminentes de países vecinos. Durante el seminario fueron debatidos temas que trataron sobre los deberes fundamentales y los derechos humanos de las comunidades indígenas y marginadas y el papel de apoyo de las Naciones Unidas. También se discutió la situación de los derechos humanos en la India y en países vecinos, el papel de las organizaciones no-gubernamentales en la suplementación de la NHCR y el papel de los medios de difusión en la Promoción de la Cultura de Derechos Humanos.

Las conclusiones arribadas en el seminario surgieron en la forma de la Declaración Doon sobre Derechos Humanos.Una de las más importantes características fue la recomendación de que el Gobierno estableciera una Comisión Tribal en la cual el Ministro de la Comisión fuera de una Comisión Tribal.

Jharkhand

El Proyecto de Ley Jharkhand Demorado

Una vez más, se puede aplicar "tan cerca pero a la vez tan lejos". Todos creyeron que en algún momento durante la sesión del Parlamento que finalizó el 17/5/2000, los tres proyectos de ley para la creación de tres estados nuevos e independientes iban a ser introducidos y aprobados. Sin embargo, ya se sentía, una vez más, en la última semana de la sesión, que los proyectos de ley, y particularmente el proyecto acerca de la creación del Estado independiente de Jahrkhand, podría no ser introducido.

El proyecto de ley Jharkhand fue aprobado por la legislatura de Bihar, principalmente debido a las imposiciones políticas de Laloo led Rashtriya Janata Dal. Sin embargo, ellos también propusieron aproximadamente 50 modificaciones al proyecto de ley. Los líderes de Bihar y Jharkhand, sin embargo, llegaron posteriormente a un acuerdo con respecto a las modificaciones que eran aceptables. El proyecto de ley, sería bueno recordar a los lectores, no involucra el área total de aproximadamente 180,000 km^2. que históricamente se demandaba, sino solamente los 79,638 km^2 que quedan en Bihar. Los *jharkhandis*, particularmente los *adivasi* sienten que esto podría ser un paso para la formación total y completa de Jharkhand. El proyecto de ley Jharkhand junto con los otros dos proyectos de ley para la creación de un

estado de Chhatisgarh, adjuntando los propuestos proyectos de ley del estado de Jharkhand y Uttarakhand fueron tratados de introducir no muy enérgicamente durante el último día de la sesión que finalizó el 17/5/2000. Este intento del último día demuestra por sí solo que el gobierno no tiene una resolución clara acerca de los estados propuestos.

Se informó que debido a la oposición de los partidos de coalición del Partido Bharatiya Janata, así como de partidos de oposición no pertenecientes al Congreso, los proyectos de ley fueron detenidos. El Ministro de Asuntos Parlamentarios declaró luego que los proyectos de ley iban a ser introducidos el día de apertura de la Sesión Monzónica. Tal demora deliberada demuestra ampliamente la posición de las comunidades y pueblos oprimidos y marginados de la India, y también demuestra que las demandas y aspiraciones populares de las regiones pueden ser obstruidas por estructuras constitucionales que son dominadas, controladas y presionadas por intereses creados y grupos opuestos a los intereses de los *adivasi* y otros pueblos marginados.

La salud de los pueblos tiene baja prioridad en Jharkhand

En el mes de abril del '99, el Primer Ministro Atal Bihari Vajpayee hablando en Luknow, Uttar Pradesh, declaró que, las ONGs deberían venir libremente a ayudar para la concreción del compromiso del Gobierno de proveer de todos los servicios médicos a todas las clases dentro de la sociedad, y que los hospitales gubernamentales no cuentan con los recursos suficientes para atender a la enorme población de la India. Para esto, dijo, es necesario el apoyo de las ONGs. Este sentir por parte del Primer Ministro también fue expresado en Ranchi, la propuesta capital de Jharkhand, por el Cirujano Civil, Sr. Y. K. Sinha, quien declaró, "Las organizaciones voluntarias cumplen un papel importante en el mantenimiento de la buena salud de la sociedad".

Es bueno que personas del Gobierno, desde el Primer Ministro al Cirujano Civil de un Distrito, estén de acuerdo con la necesidad de involucramiento voluntario por parte de organizaciones en el sector salud. ¿Pero en realidad, cuáles son los desafíos a enfrentar?

Es de conocimiento popular que muchas enfermedades se encuentran muy extendidas por toda la India. Las estadísticas disponibles son totalmente inadecuadas. Para ilustrar la extensión del problema, debemos hacer hincapié en el azote de la malaria, que asumió proporciones epidémicas el pasado año.

En octubre de 1999, se informó desde Hazaribagh, en el norte de Jharkhand, que la malaria había adquirido proporciones de epidemia y costado más de doscientas cincuenta vidas en los últimos tres meses. En este mismo período, las muertes continuaron y también se incrementó el número de afectados por la enfermedad. Más aún, de acuerdo a la información recibida de doctores,

políticos y trabajadores sociales, en el distrito de Hazaribagh, con una población de aproximadamente 2.3 millones, había entre 12,000 y 15,000 personas afectadas por la fiebre.

Como agregado a este alarmante escenario se dio la acusación de que la División de Prevención de la Salud y Malaria estaba encontrando dificultades en controlar el foco de malaria. La negligencia del Departamento de Malaria queda demostrada por el hecho de que, aún teniendo suficiente stock de DDT, no se han realizado pulverizaciones en los últimos dos años. En el mismo distrito, en la aldea de Kamali tola del bloque Mandu, se informó que en abril de 1999, en un período de 5 días, 16 personas murieron y 150 fueron afectadas por malaria.

Además, en el cercano distrito de Ranchi, a fines de noviembre se informó, que tal como en otros bloques del distrito, el bloque de Angara se estaba deshaciendo ante el brote de malaria. En las áreas más forestadas, cientos de personas sufrieron la enfermedad y docenas de personas murieron a causa de la malaria para fines de noviembre. Este horrible escenario también se informó para muchas otras áreas Jharkhand.

¿Cuál fue la respuesta del Departamento de Salud de la Región? Los primeros párrafos de esta sección indicaron la necesidad de organizaciones voluntarias. De todos modos, esta necesidad es creada comúnmente por la negligencia, algunas veces criminal, de los servicios de salud gubernamentales, así como también por la corrupción que existe en ellos. Entonces, lo que se necesita no es sólo alguna ONG que haga lo que el gobierno, de hecho, debería estar haciendo, sino también acciones políticas de parte de la gente. El gobierno debe ser obligado a hacer su trabajo.

Desaparición de Bosques

En el frente del medio ambiente, el escenario tampoco se ve muy positivo. Así como en muchos otros lugares del mundo, se ha notificado que en la India hay una competencia entre la distribución de los recursos minerales, los bosques y los pueblos indígenas. El desarrollo industrial se ha basado en la extracción y explotación de los recursos minerales y los bosques. Esto ha tenido un peligroso y poco saludable impacto en las vidas de los pueblos indígenas y de todos aquellos que habitan cerca de estos territorios ricos en recursos naturales. En el estado de Bihar, las mayores áreas de bosques se encuentran en los 18 distritos del sur del estado, que forma parte de la gran área de Jharkhand. El resto de Jharkhand se encuentra en los estados de Bengal, Orissa y Madhya Pradesh.

El Ministro de Forestación de Bihar, Tulsi Das Mahato aceptó que en Bihar existen hoy sólo aproximadamente 30,078 km^2 o 16 por ciento del total del área forestada, muy por debajo del 33% requerido para un saludable medio ambiente. Como agregado a otros efectos perjudiciales, la desaparición de bosques reduce los habitats para los animales salvajes. Como consecuencia de esto, se incrementan el número de incidentes de animales que atacan humanos, sus campos y casas.

Se informó a fines de agosto de 1999 en el bloque Kara del distrito Ranchi, de elefantes que atacaron muchas aldeas de Kara. Los elefantes no sólo destruyeron muchos de los cultivos de los aldeanos, sino que pusieron en riesgo las vidas humanas. Los habitantes de la aldea se sintieron ofendidos por el hecho de que el Departamento de Forestación o la Administración del Distrito no hiciera nada por solucionar sus problemas o salvarlos de los ataques de los elefantes.

A fines de septiembre de 1999, el ex Miembro de la Asamblea Legislativa (MAL), el Sr. Nirmal Kumar Besra dijo que en estos días el miedo ante el ataque de osos salvajes se había expandido por las aldeas de Kurdeg, Kuchdega, Biru y otras. Hasta ahora docenas de personas han sido atacadas y muertas. Dijo que en la estación monzónica, cuando la gente se encuentra arando y cultivando, el ser atacados por animales salvajes puede agravar aún más su problema económico y el sufrimiento de los granjeros.

Pero el gobierno de Bihar no muestra la menor inclinación hacia la protección y regeneración del medio ambiente. De acuerdo al reporte del Cuerpo Central Gubernamental, un plan de concientización sobre la importancia de los bosques y la información vital de los mismos, subsidiado por la Agencia Internacional Sueca para el Desarrollo (SIDA) empezó en 1985-86. Este plan debería durar seis años, y su principal componente es el de entrenar y proveer de información a la gente. Pero hasta julio de 1998, el plan no ha sido implementado. Aún así, 5.588 millones de Rupias (US$136,000) se gastaron en salarios de funcionarios y administrativos del Departamento Forestal. Peor aún, debido a la negligencia y la falta de entusiasmo del gobierno de Bihar, el Banco Mundial rechazó un préstamo de 1820 millones de Rupias (44.39 millones de US$) para un proyecto forestal. Ese comportamiento irresponsable de parte del Estado plantea preguntas sobre con quién debería uno trabajar para la conservación del medio ambiente. Obviamente, debería ser mejor trabajar directamente con la gente involucrada si es posible, o a través de organizaciones no gubernamentales.

La Respuesta de la Gente

De cara a esta destrucción y crisis ambiental, la respuesta de la gente, aunque sólo unos pocos, ha sido fortalecedora. Algunas veces han sido un tanto extremas. Sólo dos ejemplos se muestran a continuación.

En Pakur en la región Santhal Pargana de Jharkhand, un grupo de niños con motivación ambiental ha complicado las actividades de la "Mafia Forestal", compuesta por contratistas y ladrones de madera. No se les permite el paso a los camiones hacia las colinas y a aquellos camiones que transportan madera robada se les obliga a pagar grandes sumas de dinero. También demandaron que las autoridades forestales tomen acciones punitivas contra la gente que saquea y destruye los bosques. Cuando se informó en agosto de 1999, los más de cincuenta niños de la aldea Satna, en el bloque Littipara iban de aldea en aldea difundiendo el mensaje ambiental.

En la posición extrema, en noviembre de 1999, activistas y *padyatris* (personas que intentan llamar la atención a su causa viajando a pie) de Chotanagpur Kisan Vikas Sangh (Sindicato de Desarrollo Granjero de Chotanagpur) anunciaron que debido a la poca voluntad de los partidos y las autoridades involucradas a prestarles atención a sus protestas, es mejor abrazar *"Jal Samadhi"* (abrazar la muerte en el agua).

El Chotanagpur Kisan Vikas Sangh, ha realizado protestas durante los últimos cinco o seis años por la limpieza del que consideran el río más polucionado del mundo – el río Damodar. A pesar de ser el mayor río de la región de Hazaribagh -Dhanbad, el agua del río está tan polucionada que no es más potable. De todas formas, la gente está obligada a seguir utilizándola, y como resultado de ello las enfermedades transmitidas por el agua se están diseminando y la gente está muriendo

Hace algunas décadas, la ambiciosa Damodar Valley Corporation, construyó las represas de Tilaiya, Maithon, Konar, y Panchet, con el propósito de controlar las inundaciones, riego, provisión de agua potable y generación de electricidad. Hoy, a excepción de la electricidad, todos los otros servicios, particularmente riego y agua potable, se han transformado en superfluos o en un problema. Los Sangh reportaron que los principales culpables responsables por la polución del río son Central Coalfields Limited (CCL), Damodar Valley Corporation (DVC), Bharat Coking Coal Limited (BCCL), los TATAS, la gran casa de hombres de negocios, y la Bokaro Steel Plant (BSP).

En el frente victorioso, la gente lucha contra los grandes proyectos de las represas Tudurma y Koel/Karo y el Field Firing Range continúa firme en su resolución.

Fuentes
Ranchi Express fechado el 31/10/99
Ranchi Express fechado el 1/4/99
Ranchi Express fechado el 30/5/99
Ranchi Express fechado el 21/9/99
Ranchi Express fechado el 6/8/99

Andhra Pradesh

Los gottikoyas: Aterrorizados por el Desorden
Las áreas selváticas en el distrito de Khammam en Andhra Pradesh y los vecinos estados de Madhya Pradesh y Orissa están habitados por los *gottikoyas* quienes se mudaron hacia aquí debido a su inexistencia de agua potable en sus asentamientos anteriores. Pero su nueva morada fue declarada Reserva Forestal, y los oficiales usan esto como justificación para todo tipo de maltrato a los *gottikoyas*.

Los *gottikoyas*, quienes migraron a las aldeas de Khammam desde diferentes zonas del distrito Bastar en Madhya Pradesh se enfrentan ahora a un futuro incierto. Los oficiales forestales se encontraban en un apuro al instalarse cerca de 20 asentamientos *gottikoya* en la reserva forestal a través de los años. Los *moriyas*, una tribu agresiva que ha ocupado sectores de la reserva forestal cerca del área de Bastar tuvieron lágrimas en sus ojos sólo en dos ocasiones. Una vez cuando fueron bendecidos con la muy necesaria agua y otra vez cuando fueron privados de ella. Los *gottikoyas* tuvieron una larga lucha con las autoridades locales por sus necesidades básicas, incluyendo el agua potable. Los oficiales no pudieron darles ningún consuelo ya que el Departamento Forestal había recusado su ocupación de la reserva forestal. Finalmente se dirigieron a un donante privado - el Loyola Integrated Tribal Development Society (LITDS) – para mitigar su sed. El Padre Peter Daniel, cabeza de la ONG, confió a algunos activistas tribales la tarea de realizar perforaciones en las poblaciones privadas de agua de Jogaiah Jaggaram, Bandi Jaggaram y Pavurlanka.

Para ello contrataron un equipo de perforación, pero llevarlo a los asentamientos inaccesibles se tornó una tarea hercúlea para ellos. En la tercera semana de enero de este año comenzaron las perforaciones y en sólo cuatro días las tres poblaciones tenían los pozos excavados. Pero la alegría de la gente fue de corta duración. Los oficiales forestales quienes han objetado hasta la propia existencia de los *gottikoyas* en la reserva forestal enfurecieron con la tala de árboles para hacerle camino hacia las aldeas al equipo. Cuando

todos los hombres se encontraban en la selva, los guardias forestales entraron a los asentamientos con la protección de la policía. Llenaron los pozos con piedras y arena y previnieron a mujeres y niños que protestaban por el acto sobre cualquier intento de ponerlos nuevamente en funcionamiento.

Los pozos excavados en las tres aldeas fueron desmantelados simultáneamente el 3 de febrero. Ahora las mujeres han retomado la antigua costumbre de caminar tres kilómetros para buscar agua potable. Los oficiales forestales amenazaron con demandar al Padre de la sociedad, el Sr. Daniel, por dar dinero para excavar los pozos en la reserva forestal.

Como el Padre alegó ignorancia sobre la condición de reserva de los sectores de bosque en los cuales vivían los *gottikoyas*, se presentó una causa por excavar los pozos contra uno de los activistas tribales, el Sr. Sode Veeraiah.

El personal forestal también quemó algunas de las aldeas en varias ocasiones para prevenir futuras incursiones de *adivasis* de Bastar. Bandi Jaggaram, donde la sociedad excavó el primer pozo, fue incendiada por los oficiales forestales hace diez años. Pero la gente no abandonó el lugar.

El Departamento Forestal, que condujo una inspección en la división dos años atrás, identificó 299 familias *gottikoya* establecidas en la reserva forestal. Ocuparon 1,173 acres de tierra en 13 lugares en las divisiones forestales Bhadrachalam norte y sur. La ocupación empezó tan temprano como en 1983-84 en Chinnampadu y Errampadu. Cerca de 500 acres de tierra de la reserva forestal se encontraba cultivada hoy por las tribus en los dos asentamientos, contra 340 acres en 1997. La población *gottikoya* también creció de 97 a 150 en los dos asentamientos, y se dio un considerable incremento en número en otras aldeas.

Mientras tanto, la policía de Khammam comenzó un operativo especial tendiente a enviar a los *gottikoyas* de nuevo hacia Bastar. El 12 de marzo de este año, aproximadamente 30 familias gottikoyas fueron evacuadas por la policía de tres asentamientos incluyendo Dayyalavai y Gaddamadugu de la división Bhadrachalam. Todas las familias fueron trasladadas con sus pertenencias hacia el área de Kunta en el distrito de Bastar por camiones contratados.

Adulteración de las Leyes de Tierras y Fraude Legal

Durante 1999 y períodos posteriores, los intereses que comprometían a los terratenientes que no pertenecían a las tribus y las negociaciones industriales alcanzaron su máxima presión hacia el gobierno del estado de Andhra Pradesh para realizar una enmienda a los reglamentos sobre la transferencia de la tierra 1970-I. Como consecuencia de estas negociaciones por los no tribales, el

gobierno del estado respondió a las presiones nombrando un Comité en Asuntos de Tierras Tribales.

El Comité fue nombrado por la Asamblea Legislativa en su informe del 21-7-1999. La naturaleza de las recomendaciones que realizó pueden ser clasificados en cuatro.

1. La Cláusula de Presunción: Esta cláusula comprende una definición legal de que la tierra de la zona inventariada pertenece a las tribus. Esta es una cláusula que dice legal e históricamente que la tierra como medio de vida primario para las tribus pertenece únicamente a ellos y que los posteriores ocupantes deben ser tratados en forma diferencial y establece un espacio para un tratamiento preferencial a las tribus. Sin entender esta visión histórica de la cláusula, el Comité tomó una posición a favor de los no tribales y recomendó que se sacara la cláusula que dañaba los derechos y a las tribus.

2. El Informe Gladston como Evidencia para el Informe de los Comités: En 1863 Gladston era un oficial del gobierno de la Provincia Central y estaba interesado en inspeccionar las áreas tribales de alto Godavari, incluyendo los taluks de Bhadrachalam y Rekhapelly. Este informe no tiene nada que ver con el 'área problema' que el actual comité quería estudiar. Estas áreas son Jeelugumelly, Buttyagudem que se encuentran en el área del bajo río Godavari. El comité Gladston admitió la presencia de castas no tribales en las áreas de alto río Godavari. El comité actual, olvidándose de la irrelevancia de los datos debido a la ubicación, usó el informe como material de referencia para argumentar en favor de la queja no tribal. La intención detrás de esto es un intento por adulterar el acta I de 1970. Los ilustrados miembros del comité ni siquiera se molestaron en mirar la ubicación de las áreas estudiadas en el informe Gladston y el 'área problema' presentada frente al comité actual. Precisamente, el comité no se tomó la molestia de llevar los intereses tribales como lo principal, pero si dedicó a buscar pretextos para enmendar el acta. El acta I de 1970 no daña a aquellos granjeros no tribales que vivían en armonía con las tribus teniendo los títulos legales claros hasta 1970. El acta sólo cubre los ingresos posteriores a 1970 y las personas que se han apropiado de la tierra sin títulos claros y evidencia. Terratenientes tribales ilegales antes de 1970 son una categoría, y la otra son aquellos que hacen usufructo de la tierra posteriormente a 1970 y que la compraron u ocuparon con la plena conciencia de la naturaleza ilegal del acto. La sección comprende brevemente los terratenientes de los asentamientos, agricultores y grupos no tribales depen-

diendo de los diversos antecedentes laborales mayormente pertenecientes a castas tradicionales.

3. El comité estaba refiriendo los "certificados de posición" a las diversas castas no tribales en la agencia en forma indirecta. Esta es otra táctica para adulterar el Acta I de 1970. Este movimiento ya se había formalizado por el Ministerio de Vivienda del Estado a través de la circular oficial 899/RH1/99, fechada el 8-7-99. Esto proveyó a la gente no tribal de las áreas de la agencia para lograr permiso oficial para construir casas. La oficialización de los permisos de construcción de casas alentó al éxodo de los no tribales hacia las áreas de la agencia.

4. El comité también mencionó el permiso para la venta de tierra entre los no tribales en las áreas de la agencia. La falsedad de las recomendaciones del comité y su mala preparación en este asunto se observa claramente. De hecho, el Acta I de 1970 genera un espacio para que el agente compre la tierra si está rodeada por no tribales a las tasas especificadas. Esto está claramente disponible en la presente Acta. Pero ¿por qué el reclamo de permiso para venta de tierras a los no tribales? Esto no sólo lleva a que las tribus sean desposeídas sino que genera una enorme presión sobre la insuficiente cobertura boscosa. La correlación entre los movimientos migratorios de la gente y la constante pérdida del bosque en estas áreas del estado es bastante obvia. Desde ahora, la estricta implementación de las regulaciones sobre la transferencia de tierras no sólo protege a la gente de las tribus sino también los recursos forestales. Más aún, muchos de los compradores no tribales de tierras no son miembros de comunidades dependientes de la tierra, castas o clases. Un considerable número de ellos sólo están buscando ampliar su propiedad. Un genuino acto pro tribal no debería ser sacrificado por su ambición ilimitada.

Género Explotación: Mujeres Tribales Engañadas en el Valle del Godavari

El saqueo despiadado de la tierra y los recursos forestales en el valle del Godavari no termina sólo en eso. La explotación sexual de las mujeres tribales es la nueva forma que molesta a las comunidades tribales. La clásica forma de saqueo de las tierras tribales a través del concubinato exuberante en las áreas del valle del Godavari donde los terratenientes, pequeños comerciantes y empleados del Gobierno son los principales participantes.

Recientemente, las chicas de las tribus son las más buscadas como novias por los solteros de las planicies. Beneficios pecuniarios y propiedades prove-

741

nientes de las chicas son citadas como las razones para esto. Con la Regulación 1 de 1970 que prohibe la transferencia (venta) de tierra a no tribales por parte de los miembros de las tribus en las áreas determinadas sirviendo como un obstáculo, los terratenientes de las planicies que tienen en la mira estas propiedades, se dirigen a las áreas de Girijan proponiéndose a sí mismos como solteros y casándose con las chicas de las tribus, atrayéndolas con sus trajes, botas y sombreros, para salvar esta dificultad.

Los novios, de todas formas, se deshacen de las chicas luego de adquirir las propiedades, ayudas del Gobierno, un trabajo si es posible e innumerables subsidios para los tribales bajo los esquemas de bienestar. Muchos de estos falsos matrimonios fueron denunciados por las víctimas a la presidenta de la Comisión de la Mujer del Estado, la Sra. C. Susheela Devi, durante su visita al área Paderu recientemente. Seiscientas mujeres pertenecientes a las tribus se quejaron ante ella sobre estos matrimonios, buscando una solución.

El modus operandi, como le contó la Sra. Susheela Devi al Hindu en una entrevista, era que los terratenientes dejaran a su verdadera esposa e hijos en las planicies, mayormente en las áreas costeras, y llegaban al área objetivo como solteros en busca de compromiso. "No hay ninguna objeción si la novia pertenece a una tribu", dirían, agregándole un tinte reformista a su nuevo papel.

Fue una sorpresa que algunas muchachas que estaban mejor ubicadas y trabajaban como auxiliares de parteras, se "sentían orgullosas" de tener un "soltero" que estaba igualmente en buena posición, como compañero. Y cuando el matrimonio fallaba, los padres o los ancianos de la sociedad tribal no se quejaban cuando estaban obligados a arreglárselas con el recién nacido del hombre de los llanos. Algunas muchachas de Rampachodavaram y partes del este del distrito Godavari, que también fue visitado por la Sra. Susheela Devi, dicen que no sabía que existiera una ley para todos para castigar a estos super embaucadores.

Para contener esta amenaza, el Presidente trató de conseguir que se aprobara una ley estipulando que si un hombre de las llanuras deseaba casarse con una muchacha tribal debía registrar una declaración jurada ante el magistrado local, estableciendo que no se había casado antes y dos de sus parientes debían certificar lo mismo. Luego de esto, se requeriría que el Superintendente de Policía del distrito realizara una investigación acerca del estado civil del hombre dentro de las cuatro semanas, como se hacía en Estados Unidos y otros países occidentales. Si se encontraba que la declaración jurada era falsa, esto se convertía en un segundo delito, dijo la Sra. Susheela Devi, añadiendo "esto servirá de salvaguarda contra los abandonos".

Ella dijo que la Comisión organizaría un ejercicio democrático a nivel estatal, pidiendo sugerencias y opiniones de mujeres y sus organizaciones antes de finalizar las disposiciones de la ley para ser considerada por el gobierno.

De acuerdo con la información recibida por la Comisión, durante los 10 meses de su existencia, hasta ahora, las mujeres en el estado no están libres de la dote, el acoso y el tratamiento inhumano. Recibieron 283 peticiones conteniendo varios problemas y 169 de ellos fueron solucionados. La Comisión tuvo éxito en un compromiso en el caso de una familia paria en un lugar sobre el no pago de dote y devolvió a la niña, Geetha, a sus padres con la ayuda de la policía en Hyderabad.

La Sra. Susheela Devi dijo que un gran número de casos relativos a manutención, bigamia, acoso y ultraje a la modestia estaban pendientes en los tribunales y que todos ellos podían solucionarse según los capítulos relevantes de ley. En vista de esto, dijo, estaba planeando tener un "Lok Adalat" (tribunal tradicional de la aldea) en alguna fecha en mayo - junio de este año para solucionarlos en grupo dependiendo de la naturaleza del caso. La Alta Corte ha había "estado de acuerdo" con esta propuesta según la cual aún un Juez de Distrito podía hacer el trabajo.

Las otras medidas sugeridas fueron las enmiendas a la sección 125 del Cr.PC y Sección 498 (A) del Código Penal Hindú (IPC) disponiendo una mejoría de la manutención que se debe pagar a una esposa abandonada que vive "totalmente" con los hijos a Rs. 3.000 por mes en lugar de las actuales Rs 500 y para un compromiso esposa-marido aún luego de comenzar el juicio contra este último por exigencia de dote. El Presidente dijo que el Departamento Legal estaba redactando un proyecto de ley.

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743

Orissa

Orissa, estado separado en 1936 con 13 distritos, reconstituido recientemente en 30 distritos, está ubicado tercero entre los Estados Indios en términos de tamaño de población tribal (1991). 62 diferentes comunidades tribales, con 25 diferentes lenguajes viven aquí. 12 han sido identificados como grupos principales, entre ellos los *kondh* como el grupo más grande, seguido por el *santhal, saura, gond, munda, parja* y *bhuiyan.* Las tribus habitan regiones montañosas remotas e inaccesibles y tienen muy diversas organizaciones y culturas sociales.

Aproximadamente uno de cada cuatro ciudadanos en Orissa pertenece a una tribu y ellos forman una minoría principal. En un número de distritos como Mayurbhanj, Keonhjhar, Phulbanj, Kurapur o Sundergarh, constituyen más del 50% de la población.

El desarrollo de las tribus es un objetivo importante del gobierno de Orissa y aproximadamente 45% del área tribal del estado ha sido declarado Área Scheduled según la constitución y por orden de Area Scheduled de 1959 que fue revisada en 1977 para incluir siete áreas más.

Despojo que lleva al Descontento

Hay un aumento en el nivel de descontento entre los miembros de las tribus en los últimos años acompañado por un número de alzamientos sangrientos. La mayoría de las áreas tribales, particularmente en Koraput todavía no han sido relevada. La tierra tribal se pierde por apropiaciones efectuadas por extraños a las tribus y debido a fallas en la intervención gubernamental. Se ha minimizado el acceso a las selvas y a los productos de la selva y los precios de estos productos no son apropiados. Los tribales son desalojados por la fuerza en nombre del desarrollo, a veces por proyectos de irrigación y energía, industrialización y el establecimiento de áreas protegidas sin ninguna compensación apropiada. Los derechos comunitarios ya no existen, y el gobierno parece ser el mayor explotador.

Las tribus, sin embargo, ya no permanecen como mudos espectadores. En 1999, las tribus llevaron a cabo tres brotes de resistencia. En un caso, quemaron la cárcel local y sacaron a dos internos (que eran los explotadores) y los quemaron vivos. Más adelante quemaron uno de *casta scheduled* que había dado refugio a esos dos explotadores. Incidentalmente, los explotadores también eran de *casta scheduled.*

En otro incidente, las tribus resistieron a la gente de la *casta schdeuled* quienes querían apropiarse de su tierra, y durante el suceso fueron muertos 10 miembros de tribus en tiroteos con la policía. Y en un caso un líder tribal

local fue muerto por la Mafia del alcohol cuando logró parar la producción y la venta de bebidas alcohólicas en el distrito Suridargarah.

En marzo de 2000, miles de miembros de las tribus se reunieron en Capital Bhubaneswar y organizaron una marcha que pasó a través de varios centros de poder. Finalmente, expresaron sus sentimientos al nuevo Primer Ministro con la esperanza que el nuevo gobierno será diferente con respecto al desarrollo tribal. El nuevo Primer Ministro prometió considerar sus asuntos sinceramente. De esta manera el proceso de auto afirmación se ha generado y está cobrando fuerza día a día entre los *adivasi* de Orissa.

De acuerdo a informes recientes, hay 172 minas en Orissa. 70 son de hierro, 20 son de carbón y cuatro de bauxita. Los distritos de Rayagada, Koraput y Kalahandi son las regiones más pobres del país. Sin embargo, los miembros de las tribus de esta área son intimidados y obligados a dejar la tierra, su único medio de supervivencia. El proyecto Larson y Turbo de 15.000 millones de rupias (375 millones de US$) dejará a 6.000 personas de 20 aldeas, sin hogar. Otro proyecto en Baphilimali, distrito de Rayagada por el Utkal Alumina International Ltd. (UAIL) desplazará 100 familias más.

El Super Ciclón Hace Estragos en Orissa

Orissa experimentó uno de los desastres humanos más desvastadores debido al peor ciclón del siglo actual que sacudió los cimientos socio económicos del estado. Un ciclón asesino en la mañana del 29 de octubre con vientos de una velocidad de alrededor de 250 a 300 km/h, golpeó las costas de Orissa. Un total de 12.5 millones de personas, entre ellos alrededor de 800.000 tribales, fueron afectadas por este super ciclón, ya sea directamente o por inundación salina o ambos. Muchas prósperas aldeas con gran movimiento fueron dañadas o completamente arrasadas. La ferocidad del ciclón fue tal que las olas medían de 15 a 20 pies y entraron 30 Km en tierra firme, causando pérdidas generalizadas de vidas humanas y animales y destruyendo cultivos y propiedades. La pérdida de vidas humanas se cree que es de más de 30.000. La miseria se ha profundizado tras la inundación de un número de áreas en los distritos vecinos luego de la devastación del ciclón.

Andaman y las Islas Nicobar

Las islas Andaman y Nicobar en la bahía de Bengala consisten en 572 islas, islotes y rocas. Aproximadamente 87%, o 7.171 Km2 de su área total de 8.249 Km2 está oficialmente cubierta por selvas, albergando una flora y fauna únicas.

745

36 de las islas están habitadas. En 1901, la población de las islas era de 24.500. Luego de la independencia de la India de la dominación británica en 1947, el gobierno hindú alentó la inmigración desde tierra firme. De acuerdo con el censo de 1991 la población era de 280.661 personas. Hoy, ésta se estima en alrededor de 400.000. Los pueblos indígenas representan actualmente solamente el 9.54% de la población total. La cifra oficial de 26.770 no incluye a los *jarawa* y los *sentinelese*, ya que no pudieron ser contados. Se cree que a fines del siglo XVIII, había 15 grupos indígenas en el archipiélago, de los cuales solamente sobreviven seis en la actualidad. En las islas Andaman viven cuatro pueblos indígenas de origen *negrito*: los *gran andamanes*, los *onge*, los *jarawa* y los *sentineleses*. Las islas Nicobar son el hogar de dos pueblos indígenas de origen mogol: el *nicobarese* y el *Shompen*.

Recientemente se diseñaron planes para un rápido desarrollo de la economía de las islas. Se ha sugerido la creación de un puerto libre y el desarrollo del turismo. Reivindicando que se basaban en la recomendación de un grupo de estudio del PNUD/OMC, en los últimos años se han iniciado proyectos para la construcción de lugares de veraneo, el desarrollo de las playas, los deportes acuáticos, la planificación y el entrenamiento de la mano de obra, la creación de una autoridad en desarrollo turístico y más efectivas formas de comunicación.

Pero para los pueblos indígenas de las Islas Andaman y Nicobar, el contacto con el desarrollo solamente ha traído la desintegración de sus sociedades, la pérdida de sus culturas, desposesión, pobreza y muerte. Con la excepción de los *nicobareses*, las poblaciones de las comunidades indígenas sobrevivientes han continuado disminuyendo rápidamente durante las últimas décadas.

Muchos de los *nicobareses* han sido asimilados a la sociedad india pobladora, especialmente los que viven en la isla Car Nicobar. Los misionarios cristianos han estado en contacto con ellos y los han convertido al cristianismo. Su número es de alrededor de 26.000, y son por lejos el grupo más grande de pueblos indígenas en las Islas Andaman y Nicobar.

Ocupando la remota y aislada isla de Sentinel Norte, los *sentineleses* han permanecido completamente hostiles y nunca han permitido a nadie el desembarcar en sus orillas. Los *sentineleses* fueron "descubiertos" recién en 1967. Se cree que son un número entre 50 y 200. El gobierno de la India esporádicamente manda expediciones - barcos cargados con regalos de cintas

746

rojas, cocos, boniatos, arroz cocido y navíos de aluminio. Se sabe que los *sentineleses* han llegado hasta los barcos aceptando los presentes excepto el arroz cocido y los navíos de aluminio. Han dejado en claro que desean que los dejen solos.

Los *shompen,* de Nicobar hasta hace poco han estado bastante aislados en la gran isla de Gran Nicobar. Pero las poblaciones de hombres retirados del servicio y las actividades de desarrollo los ponen cada vez más bajo presión. Recientemente se estableció una choza de amistad para facilitar el contacto con los pobladores. Pero las experiencias de otros grupos indígenas muestran que tales tipos de "contactos amistosos" pueden ser fatales.

Los *gran andameses* eran una comunidad de diez sub grupos que vivían en la principal de las islas Andaman. Cuando se estableció el primer contacto con ellos en 1858, su población se estimaba en alrededor de 4.800.

La estrategia británica de "civilizarlos" consistió en una combinación de expediciones "punitivas" y soborno.

En el contacto, un gran número pereció debido a enfermedades. Epidemias tales como la neumonía (que estalló en 1868), el sarampión (1877), la influenza (1896) y la sífilis mataron a ciertos. No tenían ninguna resistencia a esas enfermedades. De los 4.800 en que se estimaba la población en el siglo XIX, en Gran Andmanese se redujo a 625 en 190, 90 en 1931 y 23 en 1951. Como se mencionó más arriba, en 1991 eran 28. Fueron los primeros en ser "civilizados" y actualmente han dejado de existir como comunidad. No tenían ninguna forma de rogar por su vida hasta hace unos pocos años, en que la administración los asentó en la isla Stuart donde ahora sobreviven de los subsidios del gobierno.

Los *onge* viven en los 732 Km2 de largo de la densamente forestada Isla Pequeña Andaman. Luego de los *gran andamanese* fueron los siguientes en ser "civilizados".Con la independencia, el gobierno de la India alentó la migración de los habitantes de la tierra principal para salvaguardar sus intereses territoriales. La Reglamentación de Protección de Tribus Aborígenes de Andaman y Nicobar de 1957 acordaba la condición de reserva tribal a toda la isla. Pero según un informe de 1965 realizado por "El Equipo Interdepartamental sobre Programa de Desarrollo Acelerado para las Islas A & N", el Ministerio de Rehabilitación del Gobierno de la India proponía una limpieza de cerca del 40% de los bosques de la isla, llevando 12.000 familias de pobladores al área y la promoción de plantaciones comerciales tales como aceite

rojo de palma e industrias basadas en la madera. En 1967, la isla de Pequeña Andaman fue abierta para los pobladores. En 1970 comenzó la extracción de madera. La destrucción de las tierras ancestrales de verdeantes y densas selvas tropicales de los *onge* comenzó en nombre del desarrollo para los pobladores. La Reglamentación de 1957 fue ignorada y violada. A 20.000 hectáreas (aproximadamente 30%) de la isla se les quitó su calidad de reserva tribal en dos etapas, en 1972 y 1977, pero se dejaron 53.000 hectáreas como una reserva tribal inviolable. Las 1.600 hectáreas de trabajo de plantación de aceite rojo de palma comenzaron en 1975 por parte del Departamento de Forestación y una extracción principal de madera continúa hasta hoy.

En 1976, los *onge* fueron reasentados por la fuerza por el gobierno en un área de 110 Km2 en Dugong Creek en el Noreste de la isla. En 1980 se estableció el segundo asentamiento en South Bay en el extremo norte.

La Corporación Forestal introduciéndose aún dentro de la reserva tribal y en cantidades mayores a las permitidas, destruye la selva. Las advertencias de las Sociedad Antropológica de la India y de los medios de comunicación no han sido efectivas.

Hace solamente una década, los *onge* eran diestros cazadores y recolectores siguiendo un patrón de mudarse de la costa a áreas de selva y arroyos de acuerdo con la provisión de alimentos en el mar y la selva. Hoy, están confinados a sus asentamientos viviendo de provisiones gubernamentales y como trabajadores en las plantaciones. El alcohol introducido por los pobladores está cobrando un pesado precio en la comunidad. La continuada disminución en el tamaño de la comunidad ha llevado a la erosión de sus valores y relaciones sociales; su cultura se está perdiendo.

Desde su contacto con los colonialistas británicos la población de los *onge* ha caído de 672 en 1901 a 250 en 1931, y a 101 en 1991. Hoy el nacimiento de un niño se ha convertido en una rara ocasión. Los *onge*, igual que los *gran andamanese*, no sólo están perdiendo su cultura sino que están enfrentados a la extinción.

Los *jarawa* ocupan un área de 785 Km2 a lo largo de la costa oeste de Centro y Sur Andaman, un área llamada por el gobierno la Reserva Jarawa. Durante la II Guerra Mundial, los japoneses capturaron y masacraron a muchos *jarawas*. Centro Andaman y Sur Andaman son los focos de gran parte de la inmigración india hacia Andaman. Los *jarawas* continúan siendo hostiles. La Reserva Tribal Jarawa fue creada para proteger la forma de vida de los *jarawa*, para mantenerlos confinados a la reserva. Para evitar que el aumento de poblado-

res invadiera la reserva, se crearon 44 campamentos de policía del monte con 400 policías establecidos a lo largo de la periferia de la reserva.

No hubo contactos con los *jarawa* hasta 1968 en que un grupo de ellos fue "capturado". En 1974, una partida contratada compuesta de funcionarios de la administración, miembros de Andaman Adim Janjati Vikas Samiti, antropólogos y oficiales de policía, establecieron un contacto amistoso con algunos miembros de los *jarawa*. La crítica considera esto un intento de hacer a los *jarawa* dependientes de la administración.

Desde los años '70, el tamaño de la reserva ha disminuido constantemente, para apropiarse de la tierra para talar, para pobladores y para la carretera principal de Andaman. La Carretera Principal de Andaman de 340 Km de largo corta a través del corazón de la reserva *jarawa* y ha abierto más áreas para ser pobladas. Las protestas de los *jarawa* en forma de bloqueo de las rutas, demolición de puentes, ataques y ocasionales asesinatos de trabajadores, han sido ignoradas. El trabajo se detuvo en 1976 pero comenzó nuevamente. El tráfico en la carretera ha crecido enormemente. Muchos más pobladores viven ahora en las áreas que bordean la Reserva aumentando con ello las posibilidades de interacción y conflicto. Es común la caza del cerdo salvaje y del ciervo dentro de la reserva por parte de los pobladores así como el apropiarse de los productos de la selva y la madera. A veces, los asentamientos *jarawa* también son destruidos. Han ocurrido muchas invasiones ilegales en la reserva en conexión con el apoyo político. Forzados dentro de un área cada vez más pequeña, los conflictos entre los *jarawa* y los pobladores aumentaron y ocurrieron incidentes violentos. Con las continuadas invasiones de los pobladores a la reserva, la función de la fuerza policial ha sido confinada a mantener los *jarawa* acorralados. Un pueblo que una vez deambuló a lo largo y ancho de su isla sin obstáculos ahora es prisionero en una fracción de sus tierras originales.

En octubre de 1997, los pobladores de Centro Andaman fueron testigos del espectáculo poco familiar de un grupo de *jarawa*. Esta fue la primera instancia registrada en que los *jarawa* voluntariamente buscaron establecer contacto con los pobladores. En los meses siguientes hubo varios informes de *jarawas* que salían de sus selvas. Se vio que algunos de ellos señalaban sus abdómenes lo que se interpretó como expresiones de hambre. Se dejaron caer por aire desde helicópteros en el territorio *jarawa*, paquetes conteniendo pescado seco, arroz inflado y bananas. Pero los *jarawa* se han mantenido por siglos de los productos de la selva y no hay razón para creer que repentinamente hayan sido empujados a la inanición.

749

Jarawas corriendo hacia el "bote de contacto" (Foto: Sita Venkateswar).

Los antropólogos tienen otra explicación. Se refiere a la experiencia de Enmey, un adolescente *jarawa*, que fue encontrado con un pie fracturado cerca de la ciudad de Kadmtala en 1997. Los residentes locales se ocuparon de su tratamiento en Port Blair donde fue bien cuidado. Cuando Enmey se recuperó, fue enviado de vuelta a Centro Andaman donde rápidamente desapareció en la selva. Desde octubre de 1997, es en gran parte Enmey quien ha sido responsable de sacar a su pueblo para experimentar la hospitalidad de los pobladores, y no la inanición. Sin embargo, la destrucción del medio ambiente natural y el confinamiento de los *jarawa* en territorios cada vez más pequeños son indudablemente hechos amenazadores con un gran impacto en los *jarawa*.

Pero un futuro aún más nefasto espera a los *jarawa* en caso que el gobierno de la India pruebe no haber aprendido nada de las prácticas genocidas de los británicos y de sus propias faltas del pasado. El Plan Maestro del gobierno (1991-2021) para el Bienestar de las Tribus Primitivas de las islas Andaman y Nicobar plantea una política de asentamiento de los *jarawa*. El plan para el 2020 en adelante dice: "Los *jarawa* deberían llevar una vida sedentaria con economía excedentaria basada predominantemente en la pesca. Habrá dos

aldeas de pobladores *jarawa*, una en Sur Adaman y la otra en Centro Andaman." El gobierno todavía está en proceso de revisar el Plan Maestro, por lo que la política sobre los pueblos indígenas de las islas de Andaman y Nicobar todavía no está clara.

Sin embargo, las fuerzas del gobierno que están presionando por una asimilación forzada, han recibido el apoyo de un Litigio de Interés Público realizado contra la Unión de India en 1999. Ms. Ganguly, una abogada que viven en las Andaman, está exigiendo el asentamiento forzado de los *jarawa* - que podría, como lo ha mostrado la historia en las islas Andaman, así como en el resto del mundo, llevar a la extinción de esta comunidad cazadora - recolectora.

Ms. Ganguly dijo: "Ya es tiempo de que tomen conocimiento de la civilización moderna". Se refería a las dos otras tribus contactadas en las islas Andaman como ejemplos del tipo de asentamiento que desea para los *jarawa*. Pero aún los funcionarios del Departamento de Bienestar Tribal han admitido que esos casos eran desastrosos. Ms. Ganguly nunca ha consultado a los *jarawa* sobre sus intenciones, y ellos no podrían tomar parte de los procedimientos. Es altamente improbable que ellos siquiera sepan lo que está sucediendo.

Trágicamente, las advertencias de los antropólogos y otras personas preocupadas desde que se intensificaron los contactos con los *jarawa* en 1997, recientemente han tenido razón. En agosto pasado, una epidemia de sarampión estalló entre los *jarawa* con las consiguientes complicaciones respiratorias, incluyendo tuberculosis y conjuntivitis. Se ha informado hasta ahora de 140 casos en un total de población estimado en 300 personas. Estas enfermedades son sin duda un resultado directo de los contactos intensificados por el gobierno de Andaman y el aumento de las invasiones a sus territorios. Tales informes traen recuerdos de epidemias entre los *gran andamanese* y los *onge* que diezmaron seriamente sus poblaciones y llevaron a varios grupos a la extinción. Los antropólogos, las organizaciones locales y otras personas interesadas han estado presionando a la administración Andaman para terminar con toda forma de contacto con los *jarawa*, y cerrar la ruta que corre a través de su territorio, pero hasta ahora sin éxito aparente.

Survival International ha estado liderando la campaña internacional por los derechos de los jarawa. Su campaña puede ser apoyada contactando su página web en: http://www.survival.org.uk/

751

Fuentes

El artículo está principalmente basado en un artículo inédito escrito por The Other Media, de Nueva Delhi. Ha sido editado y corregido por el editor con la ayuda de las siguientes fuentes:

Venkateswar, Sita 2000. Los *jarawa* de las islas Andaman. Asuntos Indígenas 2, Junio de 2000. Copenhage: IWGIA

Survival International: boletín, Agosto de 1999; comunicado de prensa, Agosto de 1999; boletín actualizado, Octubre de 1999.

SRI LANKA

Los Wanniyala-Aetto

En 1983, los *wanniyala-aetto* de Sri Lanka eran un pueblo de enérgicos cazadores y recolectores protestando contra las prácticas discriminatorias del gobierno que les negaba el acceso a su hábitat tradicional en los bosques. En 1998, parecían al fin seguros de estar en la antesala del éxito. Como forma de solucionar las quejas de la comunidad *wanniyala-aetto*, el Presidente les permitió continuar con 'su tradicional forma de vida' y 'obtener la participación activa de los *wanniyala-aetto* en el proceso de protección de la fauna y la flora en el Parque Nacional Madura Oya librado a sus deseos' (Presidente de Sri Lanka, 1998). Se le ordenó al Departamento de Vida Silvestre a emitir tarjetas de identificación especiales para los *wanniyala-aetto* de forma que pudieran ingresar al Parque Nacional Madura Oya sin acoso o persecución. 28 tarjetas se entregaron inmediatamente después de la proclamación, pero aún 1020 individuos permanecían en la lista. Sólo un año después, en 1999, el gobierno abandonó su creativa solución. Fue nombrado un nuevo Director de Vida Silvestre quien rechazó la política de su predecesor, detuvo la emision de permisos, y se rehusó a renovar las tarjetas de identificación vencidas o a emitir nuevas para reemplazar las perdidas. Los *wanniyala-aetto* están de nuevo donde estaban antes de presentar su causa en la reunión del WGIP en las NU en 1996. No pueden entrar al bosque a cazar y recolectar sin poner en riesgo sus vidas. Ahora, son un pueblo desilusionado y sin derechos que está llevando adelante su supervivencia presentando sus tradiciones culturales ante turistas curiosos. [1]

Condiciones Actuales

Las condiciones de los *wanniyala-aetto* reflejan los muy familiares problemas de los pueblos indígenas alrededor del mundo, sitiados en su propia tie-

rra por una sociedad intrusa y dominante. En Sri Lanka, el muy pequeño número de sobrevivientes *wanniyala-aetto* está virtualmente cautivo de la explotación de los recursos y de la gente misma. Al ser reemplazado el sistema indígena del trueque por una economía de mercado, la población nativa está pagando un alto precio en la integridad cultural y en sobrevivencia individual.

Explotación de los Recursos Naturales

Los recursos del bosque continúan siendo drenados mediante la remoción de valiosa madera, diversión y productos animales tales como marfil y pieles, dientes y garras. Los empresarios, que son ellos mismos medio indígenas, explotan a su propia gente como también los recursos naturales. En los últimos años, los habitantes de los bosques (los *wanniyala-aetto*) y los comerciantes de áreas vecinas están comenzando a cuestionar estas prácticas.

Por un tiempo, las protestas perturbaron a la policía, a los propietarios de hoteles y alojamientos, a los políticos locales, pero con el tiempo todo volverá a la normalidad. La policía mira para otro lado mientras camiones acarreando raros tipos de madera disfrazados de leña pasan por los controles militares por la noche. La corrupción es algo tan institucionalizado en Sri Lanka que dificulta realizar cualquier tipo de cambio que pretendan los manifestantes locales. Está tan institucionalizado esto en el país que el gobierno ha instalado una Comisión del Soborno y una Oficina del Fraude para combatirlo. Todas las guías telefónicas de Colombo presentan los teléfonos de las dos agencias en la tapa, justo al lado de los números para emergencias y servicios en accidentes.

Explotación de Pueblos Indígenas: "Amistad"

Los *wanniyala-aetto* mismos son explotados de diferentes maneras, todas ellas basadas en las costumbres de su cultura: reciprocidad balanceada, creencias animistas, tradición de baile, mitos y vida material. Para sobrevivir en un mundo exterior cada vez más hostil, los *wanniyala-aetto* han aprendido a adaptarse tanto a los sistemas legales abiertos y al encubierto. Por ejemplo, los *wanniyala-aetto*, como la gente en el mundo, valora la amistad. Los amigos sustentan las bases de su relación mediante favores recíprocos. Desde tiempos inmemoriales, la sobrevivencia de los numerosos *wanniyala-aetto* ha dependido parcialmente en el desarrollo y mantenimiento de amistades con las autoridades: políticas, sociales, militares y la policía. Desde 1983, cuando la cacería y recolección se convirtió en delito en Sri Lanka, los pueblos indígenas tuvieron que encontrar estrategias alternativas prácticas, y la

amistad se volvió más importante. Se cultivaron las buenas relaciones con los Guarda Parques, el Director de Vida Silvestre local, comerciantes locales y políticos quienes deben mirar para otro lado cuando alguien se introduce en el bosque. Hasta un punto esta estrategia ha sido exitosa, pero la gente teme encontrarse con guarda parques uniformados armados o soldados con ametralladoras entonces acortan sus visitas sus recorridos de colecta.

Los guardias no acosarán a aquellos cazadores que pasen ocasionalmente por el puesto de guardia o los cuarteles de vida silvestre con una botella de aguardiente, o un poco de carne seca, o tal vez un frasco de miel para la familia del guardia. Aparte del sistema del regalo, los *wanniyala-aetto* pagan un porcentaje de su ingreso por la tala de árboles.

La Explotación de los Pueblos Indígenas: El turismo – ¿A Quién Beneficia?

El turismo es una forma especial de explotación, nuevo para los *wanniyala-aetto*. Representa un quiebre dramático con el pasado, cuando los cazadores y recolectores indígenas se escondieron, principalmente de los forasteros, retirándose con éxito hacia los bosques. Este escape no fue más posible después de 1983, cuando la última de las grandes tierras de bosques se estableció como el Parque Nacional de Maduru Oya. En los años siguientes, una fuerte economía eco turística ha crecido en la región, comercializando a los indígenas y su cultura exótica a los turistas, principalmente a los otros veinte millones de habitantes de Sri Lanka, pero también a algunos visitantes extranjeros. Agencias de viaje y los empresarios privados en los pueblos turísticos promueven giras para ver a los '*veddah*' los pueblos de la selva. Cuando se concreta una gira, las familias locales se dan prisa por saludar a los forasteros y bailar, cantar, y actuar 'primitivamente' para cumplir con las expectativas del turista. Las personas hacen arcos y flechas, estatuillas y joyería específicamente para vender en estas ocasiones.

El Eco-turismo puede ser una forma responsable de turismo que promueve la preocupación por el ambiente y la comunidad local. Puede ser beneficioso si la comunidad indígena entiende el negocio, habla el idioma, negocia una porción justa de la ganancia y distribuye el ingreso entre sus miembros. Desgraciadamente, la mayoría inculta de los indígenas no entienden las ramificaciones de este negocio, y no prevé sus consecuencias.

Un ejemplo de este tipo en Sri Lanka es el evento llamado "el Campamento Nocturno Entre los *veddahs*." Dos veces por mes una guía europea, su colega local, y un grupo de eco turistas equipados con tiendas de la lona, comida, parrillas para la barbacoa, y refrigeradores con Heineken y Carlsberg

754

vienen a tener un contacto amistoso con los "*veddahs*". El Campamento Nocturno se fija entre ciclismo de montaña en Pollonaruwa el día después y una visita a un orfanato de elefantes en Kandy el día antes. Para los *wanniyala-aetto*, un Campamento Nocturno les significa cuatro a cinco días, porque cualquier actividad como un largo viaje de caza los mantendría alejados de su compromiso de encontrarse con los turistas. La guía de turismo de Sri Lanka normalmente viene un día antes del evento para preparar la llegada del grupo. En la tarde del programa, el eco grupo se protege bajo una tienda (en caso de lluvia) y, cerveza en mano, se presenta una representación nocturna de 'espíritus *wanniyala-aetto* poseídos' al aire libre. Después de la representación hay una reunión informal durante la cual se ofrecen cerveza y otras bebidas a los actores. La guía no ve ningún problema en permitir que los miembros de su grupo ofrezcan alcohol, un gesto amistoso de apreciación al actor. El turista se siente que ha hecho contacto con un primitivo miembro de una tribu, y la guía sale beneficiada cuando los turistas evalúan el programa.

Entretanto, en las casas de los *wanniyala-aetto*, las madres angustiadas se preguntan si sus hijos volverán sin problemas, y sus esposas se preocupan por la forma en que lleguarán sus maridos a casa. Entre los *wanniyala-aetto*, una persona que ha perdido el control está loca, es peligrosa para sí mismo, su familia, y sus parientes. Él no es confiable y nadie considera a esta gente en serio como amigo o como un futuro esposo y padre. Sin conocer los daños que provocan, la guía y integrantes del grupo van en busca de nuevas aventuras. Los *wanniyala-aetto* quedan para recoger los pedazos. Media docena de actores comparte 2000 Rupias (US$ 33) por su trabajo nocturno.

Mientras los campamentos nocturnos no son muy lucrativos para los *wanniyala-aetto*, las giras diurnas proporcionan un ingreso mucho más alto a los participantes. El padre de familia puede ganar hasta 4000 Rs. por la visita, y sus hijos 500 a 1000 Rs., si el autobús tiene una "buena carga", lo que significa turistas blancos que pagan a los hombres por bailar delante de sus cámaras de video. Comparado este generoso ingreso con el sueldo de un maestro de escuela del gobierno que recibe 5000 Rs. por mes (1999). Estas grandes sumas ofrecen a la familia *wanniyala-aetto* una alternativa muy interesante a la recolección o la caza furtiva. Un hombre puede decidir que el mejor uso de su tiempo es servir a los turistas en lugar de gastar horas o incluso días en busca de las "comidas salvajes" y arriesgándose a un arresto. La aculturación que acompaña a la cultura indígena produce a menudo un quiebre con los valores tradicionales, una imitación (Denslow y Padoch 1988:122) de ropa europea totalmente impropia, tecnologías y manierismos. Como fue descrito antes, esto es acompañado a menudo por un aumento en el alcoholismo. Estas

155

consecuencias incluso son molestas para los turistas, y cuando les desagradan buscan un nuevo destino.

Wanniyala-Aetto Aculturizado, Objetivo para la Ropa Usada

Aunque los *wanniyala-aetto* han vivido en su isla legendaria por miles de años, y sobrevivido numerosas incursiones de extranjeros, la última mitad del siglo veinte ha sido particularmente destructiva para ellos. Les prohiben que seguir su estilo de vida tradicional, orientado hacia el bosque y al mismo tiempo son criticados por intentar adaptarse o modernizarse. Sus huertas tradicionales son descriptas por los medios de comunicación como patios de basura con las latas de salmón vacías, vidrios rotos, bolsas plásticas y ruedas de la bicicleta desechadas (Sunday Times 1998). La crítica más pesada es sobre la ropa usada (The Sunday Leader 1999; Sunday Times 1999, Daily Newa 1999). Comparando la política de Conservación de Vida Silvestre actual con la declaración del Presidente al anunciar públicamente la devolución del parque nacional a los *wanniyala-aetto*:

"(Esta política) ...les ofrece una oportunidad al pueblo *veddha* o a los *wanniyala-aetto* de continuar con su estilo de vida tradicional (si así lo quieren) y hacer progresar su civilización (Presidente de Sri Lanka, 7 de agosto de 1998) (énfasis agregado)".

Lamentablemente, los habitantes de Sri Lanka no son generalmente conscientes de la existencia de los indígenas de la isla o de cómo viven en los tiempos modernos. Muchas personas, incluyendo a los administrativos del Departamento de Vida Silvestre, creen que los *wanniyala-aetto* todavía viven en cuevas, cazan con arcos y flechas, y aparte de la tela que les cubre el torso, están básicamente desnudos. Mientras esta última descripción puede ser correcta, las otras imágenes provienen de historias de aventura (por ejemplo, Robert Knox, 1681), y de novelas y cuentos de la gente (Spittel, 1953, 1950; Parker, 1971). Como resultado, el Departamento de Vida Silvestre se justifica diciendo que desde que los *wanniyala-aetto* que intentan defender su derecho a cazar en el parque llevan ropa, estos cazadores no pueden ser considerados indígenas (Sunday Leader 1999).

La palabra "tradicional" en la declaración del Presidente genera una gran controversia. La actual generación de *wanniyala-aetto* no vive en cuevas. Para evitar ser matados, ellos le preguntan ahora a las autoridades cómo vestirse en el bosque. Algunos funcionarios gubernamentales piensan que los nativos deben llevar sólo una tela que les cubra el torso, y vivir en un simple refugio. La cacería sólo debe realizarse con arcos y flechas, mientras que las latas de salmón y las bicicletas son incompatibles con la tradicional vida

veddah. Otros están de acuerdo en que los *wanniyala-aetto* puedan usar un sarong, andar en bicicleta, y usar fusiles para cazar, pero sólo para su propio consumo. No puede haber ninguna venta de productos del bosque a los forasteros.

Hoy, la forma de vida en las aldeas Cingalesas o Tamil no son muy diferentes de la de los *wanniyala-aetto*. Por consiguiente, muchos habitantes de Sri Lanka no pueden entender por qué los *wanniyala-aetto* deban ser tratados en forma diferente. En la superficie la crítica parece pertinente, pero una mirada más profunda revela las razones para la benevolencia del gobierno hacia los pueblos indígenas. En el estado moderno, la atención a los partidos políticos precede a las elecciones gubernamentales. Los pobres *veddahs* viven en aldeas bastante lejanas de las ciudades, y se los pinta a menudo en los medios de comunicación como miembros de una inocente tribu que llevan una vida romántica en la selva. Con periodistas que documenten su generosidad, los políticos encuentran más ventajoso donar libros y lapiceras a los niños *wanniyala-aetto* y tejas a sus padres, que realizar inspecciones para determinar el bienestar de un pueblo que vive tan fuera de las normas. La aldea del hoy fallecido jefe Uru Warige Tissahamy, por ejemplo, fue puesta al corriente en 1999, menos de un año después de su muerte.

Sin tener conocimiento de las corrientes políticas, la gente y los medios de comunicación critican a los *wanniyala-aetto* por vivir en casas modernas, recibir la ayuda del gobierno, consumir alcohol, vender carne, aprovechándose de su cultura con los turistas, y usar dinero. Entre la mayoría de los habitantes de Sri Lanka, el nivel de conocimiento de la importancia de los indígenas para el país es muy bajo, casi inexistente. No hay ningún respeto por su conocimiento y habilidades ni ningún aprecio por lo que han contribuido a Sri Lanka en el pasado. Ninguna organización en Sri Lanka defiende los derechos de los *wanniyala-aetto*. Aunque la Constitución de Sri Lanka prohibe la discriminación por sexo, grupo étnico, casta, origen social, o lugar de nacimiento (Proyecto de Constitución de Sri Lanka de 1997: Capítulo 3 11 [2]), el punto de vista opuesto permea todos los aspectos de la sociedad de Sri Lanka. Los *wanniyala-aetto* son física y socialmente marginados por las dos mayores sociedades, la Cingalesa y la Tamil. Los dos mil individuos *wanniyala-aetto* tienen limitada influencia comparada con veinte millones de ciudadanos no indígenas. El gobierno, marcado por la violencia emanada de la guerra civil que empezó en 1983, está determinado a aplacar el énfasis en los conflictos étnicos dentro del país, y en cambio promueve el espíritu nacionalista. La Sinhalización total de los *wanniyala-aetto* es la política oficial del gobierno, a pesar de la declaración del Presidente de 1998 al contrario.

757

Al autor le gustarían reconocer y agradecer a Elizabeth von Till Warren por revisar el manuscrito cuidadosamente para su publicación.

Citas

1 Por información del entorno, por favor vea las publicaciones de IWGIA fechadas antes de 1985, y la Enciclopedia de Cambridge de Cazadores y Recolectores (Lee y Daly 1999).

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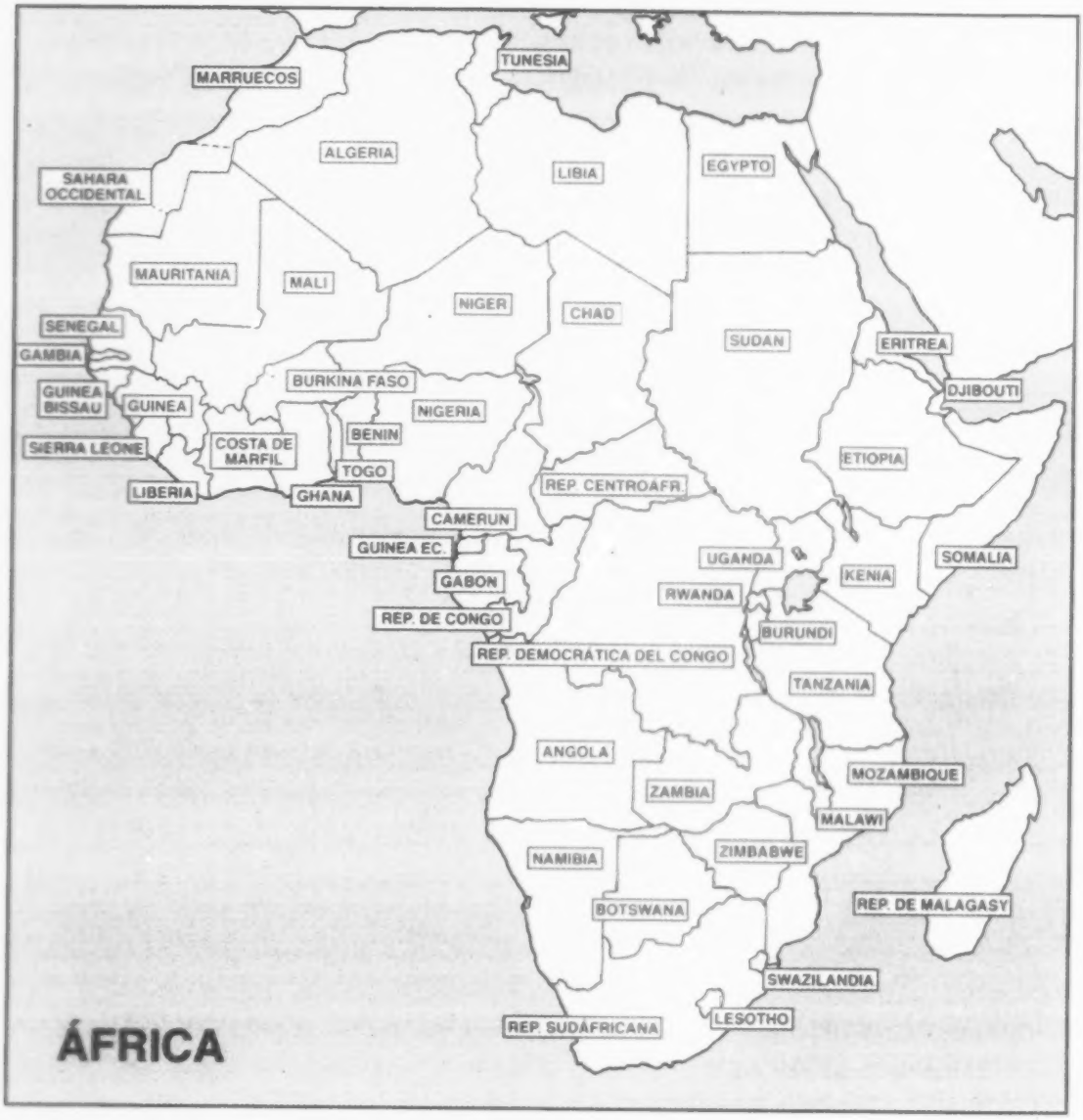

Países/regiones tratados en esta publicación: África del Norte, Etiopía, Kenia, La Región de los Grandes Lagos, Botswana, Namibia y Sudáfrica

759

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nas han contemplado un pasmoso im-
No obstante, las organizaciones indíge-
ntaja comparadas con los movimientos
la extrema pobreza del continente, la
es organizaciones civiles y una nega-
o por parte de los gobiernos africanos
ros, como las agencias de desarrollo y

IP en Ginebra, el movimiento de pue-
za más importante. Irónicamente esta
emisión del informe de Don Alfonso
cuestionó sí todas las delegaciones de
s indígenas y que algunas se beneficia-
a ONU. Este tema fue extremadamente
asiáticos debido a la negación absolu-
estados africanos y asiáticos.
las implicaciones de los comentarios
e incluyó referencias sobre el pueblo
olo de un pueblo indígena en conflicto
si la línea divisoria entre los pueblos
como en otras partes del mundo perma-
ociones y debates.
Indígena que él estaba reflejando los
anos que negaban cualquier noción de
africano, mediante IPACC, fue capaz
a declaración que alababa las observa-
beranía, al mismo tiempo que cuestio-
lato dado (es decir, comentar sobre tra-
des). IPACC condenó el trabajo inade-
fico y Rusia. En todas las sociedades
genas es ampliamente reconocido en la
üística. La capacidad del movimiento
lamente y eficientemente a Martínez es
del movimiento.

El desafío para los pueblos indígenas africanos ha sido movilizarse simultáneamente a nivel local, nacional y continental. A pesar de la enorme envergadura de la tarea, se han registrados logros substanciales en la última década, particularmente porque el Decenio de la ONU recoge impulso y visibilidad.

Activistas tuareg en Ginebra incluyendo al representante de África Occidental ante IPACC, Saoudata Aboubacrine y su diputada Zahra Mohammed (Foto: Nigel Crawhall).

El Decenio y el proceso del UNWGIP han estimulado la formación o enfoque de una serie de iniciativas en todo el continente. Actualmente hay redes de trabajo nacionales y regionales en todo el norte de África (Tamaynut en Marruecos, CAIDDDH en toda la región), en África del sur (WIMSA, en el mundo *san*, el nuevo Foro Nacional Sudatricano Khoe San), África oriental el Foro Pingo en Tanzania, África central (CAURWA, y la emergente federación de organizaciones comunitarias pigmeas).

En los últimos cinco años han emergido tres redes completamente continentales. La primera red, el Comité Coordinador de Pueblos Indígenas de África fue iniciada por los *amazigh* (llamados *beréberes*) con alianza con los *maasai* en 1996 y fue formalizado en Ginebra en 1997. IPACC tiene un secretariado en Ciudad del Cabo con una financiación independiente y apoyo organizacional del Instituto San Sudafricano. IPACC tiene elecciones regula-

761

res bianuales en Ginebra, un Comité Ejecutivo que representa los movimientos a través del continente, incluyendo una representatividad de género. IPACC se concentra en asistir a las direcciones indígenas en mejorar su efectividad a nivel diplomático internacional, y asistir con el aumento de la conscientización entre los gobiernos del norte y las agencias cooperadoras. IPACC tiene más de sesenta organizaciones miembros. El trabajo de campo y la capacitación se han realizado en Sudáfrica, Namibia, Tanzania, Kenia, Ruanda y Marruecos.

La segunda estructura continental es la Asociación de Mujeres Indígenas de África (AIWO). AIWO emergió de la primera conferencia sobre mujeres indígenas en África celebrada en Agasi, Marruecos, en abril de 1999. La conferencia, apoyada por NCIV y Tamayut tuvo un importante éxito en movilizar a mujeres activas y sus organizaciones. Un libro fue publicado a partir de las actas. AIWO juega un rol fundamental por derecho propio y tiene el potencial de asegurar la igualdad de géneros y la visibilidad sigue siendo una prioridad en otros continente y estructuras regionales.

La tercera estructura continental emergió de un taller de capacitación para derechos humanos celebrado en Arusha, Tanzania. La Organización de Pueblos Indígenas de África (OIPA), reagrupa primariamente las organizaciones orientales y sureñas de pueblos indígenas. Recibió apoyo institucional y técnico del Consejo Saami e IWGIA.

La mayor parte de los esfuerzos de los tres organismos continentales han sido dirigidos entre las organizaciones, compartiendo experiencias y construyendo un propósito común para la acción. IPACC ha realizado trabajo de "lobby" directo con el gobierno de Sudáfrica, como también con una serie de gobiernos extranjeros como Noruega, Canadá y Francia.

IPACC también ha invertido recursos para hacer cabildeos con las ONGs internacionales para desarrollar una política clara en la cooperación con países con poblaciones indígenas. A pesar de la adopción de tal política por la UE, los viajes de trabajo en Marruecos, Ruanda y Kenia indican que las ONGs europeas y norteamericanas no tienen políticas claras, y existen algunas discrepancias entre las oficinas de los países. Durante importantes ejercicios consultivos de la UNESCO en París y PNUD en Ginebra, los pueblos indígenas africanos estuvieron severamente sub-representados.

En contraste con otros organismos relacionados a la ONU, la OIT ha jugado un importante papel en la estimulación de la consciencia y formulación política en temas relativos a África. El personal de OIT realizó visitas a Camerún, la República Central Africana, Marruecos, Kenia, Tanzania, Sudáfrica y Namibia. Surgieron muy positivos resultados de Sudáfrica y CAR en parti-

cular. Todo el trabajo de la OIT condujo al fortalecimiento de las posiciones de los pueblos indígenas.

La gran fuerza en los organismos internacionales es que ayuden a demostrar que el principio de la aboriginidalidad e identidad indígena se encuentra en la mayoría de los países africanos. Las experiencias de los *pigmeos bagyeli* en Camerún son comparables con los */khomi san* en Sudáfrica. Las experiencias de los *tuareg* en Níger pueden ser comparadas con los temas *barabaig* en Tanzania (es decir, asegurar la tenencia de la tierra con migraciones estacionales/nomádicas). Esta amplia perspectiva ayuda más en el debate sobre uno de los principios que defender demandas específicas en el terreno.

La otra ventaja es la capacidad de utilizar mecanismos bilaterales para influir en la política. Sudáfrica está sumamente comprometida con los derechos humanos en el continente y está dispuesta a plantear estos temas en foros bilaterales con otros países. Ahora que Sudáfrica está a punto de adoptar una política explícita favoreciendo el reconocimiento de los pueblos indígenas, esto podría tener un fuerte impacto de los aliados como Marruecos, Burundi y Namibia.

Por otro lado, las estructuras continentales pueden ser solamente tan efectivas como sus partes constituyentes. El nivel de desarrollo organizacional entre los grupos indígenas varía enormemente con muchos grupos que todavía están completamente representados por sus propias estructuras sociales civiles. La división entre los países franco y anglo parlantes es muy profunda e introduce costosas cargas para cualquier intento serio de construir la unidad y acción nacional. Las grandes distancias y las débiles comunicaciones infraestructurales a través del continente crean otro nivel de costos y dificultades.

En julio de 1999, la Reunión General Anual de IPACC adoptó un documento estratégico. La más elevada prioridad de IPACC es asegurar que Sudáfrica asuma un rol de liderazgo en la Comisión de Derechos de las Naciones Unidas. El endoso de Sudáfrica de la actual redacción del Proyecto de Declaración y su trabajo de "lobby" bilateral, podría desbloquear el estancamiento del grupo de trabajo intersesional sacando a los países africanos de las sombras y pasándolos a la línea frontal del trabajo. Una igual prioridad es que las direcciones indígenas se junten y trabajen a través de un proceso de planeamiento estratégico que incluya a todos los participantes y acelere el trabajo de base en Ginebra.

Acrónimos:
CAURWA: Pueblos Indígenas Comunitarios de Ruanda.

763

CAUIDDH: Comisión Internacional Amazigh para el Desarrollo de los Derechos Humanos.
ILO: Organización Internacional del Trabajo (OIT)
NCIV: Centro Holandés para los Pueblos Indígenas
WIMSA: Grupo de Trabajo por las Minorías Indígenas de África del Sur.

Los Seminarios Consultivos del Banco Mundial

El Banco Mundial, como parte de su proceso de revisión de sú política Banco pueblos indígenas, organizó dos seminarios en África a los cuales asistieron pueblos indígenas de diferentes países de África. El primer seminario fue celebrado en Dakar, Senegal, y asistieron países francófonos y otros países africanos occidentales. La otra reunión consultiva fue celebrada en Kampala, Uganda, y a la misma asistieron participantes de África oriental hasta la Región de los Grandes Lagos. Según el Profesor Kunuthia Macharia, que era el consultor del Banco Mundial, Washington D.C., algunos de los temas claves planteados en ambos seminarios eran referentes a qué estaba preparado el Banco Mundial a ofrecer para proteger a las poblaciones indígenas objetivas del mismo, por ejemplo: posible retiro del apoyo gubernamental y financiamiento si un gobierno ignora los derechos de desarrollo de los pueblos indígenas. También, qué tipo de apoyo otorgará el Banco a las ONGs, especialmente a aquellas que representan genuinamente a los pueblos indígenas.

Los participantes estaban preocupados porque la política del Banco podría ser divisoria y podría introducir resultados no anticipados si era aplicada mientras que exista una definición amplia de pueblos indígenas. Estaban particularmente preocupados sobre la cuestión de comunidades vecinas que podrían estar envidiosas si sólo los pueblos indígenas eran objetivo de determinados proyectos. Se temía que esto podría conllevar alguna animosidad en vez de unidad entre las comunidades.

Estaban preocupados por el posible impacto de la política en el delicado tema de la unidad nacional en los estados africanos y la naturaleza dinámica de asentamiento en el continente . En otras palabras ¿podría ésta causar más división que la ya existente en el continente africano?

Existía una preocupación de los participantes que asistieron a ambos seminarios de que la mayoría de los gobiernos africanos no están abiertos para el discurso con los pueblos indígenas y temían que el mismo personal del Banco podría ser influido por el peligro de los mismos pueblos indígenas y necesitan revisar y comprender cómo las actuales fronteras del continente fueron creadas.

Organización Africana de Mujeres Indígenas AIWO

Desde su fundación, en Agadir, Marruecos, en abril de 1998, AIWO ha sostenido reuniones consultivas con un grupo Ad Hoc, que fue nombrado durante la primera conferencia en Marruecos. La región africana está ahora divida en cinco sub-regiones para facilitar la coordinación: las sub-regiones del Norte, Oeste, Central, Oriental y del Sur. Se supone que todas las sub-regiones organizarán una conferencia para crear consciencia y también para reclutar miembros. Hasta el momento sólo la sub-región de África Oriental ha organizado su conferencia, que tuvo lugar en Nairobi en agosto de 1999. Las otras regiones están planificando sus reuniones este año.

Las Mujeres Indígenas de África formaron AIWO con la esperanza de que crecería fuertemente como otras organizaciones indígenas de Asia y las Américas. Por cierto, fue el comienzo de un largo viaje y hasta ahora ha usado toda oportunidad para fortalecer la organización y hacerla más ampliamente conocida. La asistencia a las diversas reuniones en la ONU en Ginebra y en otras partes ha sido de mucha ayuda. Gracias al Grupo de Trabajo Internacional sobre Asuntos Indígenas, IWGIA, el Centro Holandés para Pueblos Indígenas, NCIV y el Fondo Voluntario de las Naciones Unidas, las mujeres fueron patrocinadas para asistir al Grupo de Trabajo de las Naciones Unidas para Poblaciones Indígenas, el Proyecto de Declaración de las Naciones Unidas y el Foro Permanente.

La participación en estos foros también ayudó a planificar la realización de la reunión de África Oriental y juntar fondos para la misma.

Conferencia sub-regional en Nairobi

A la Conferencia de Nairobi asistieron mujeres representantes de Tanzania, Ruanda, Burundi, Sudán, Etiopía, Kenia y Sudáfrica como observadoras. Los principales objetivos de la Conferencia de Mujeres Indígenas de África Oriental fueron:

- Aclarar el rol de las mujeres indígenas como sustentadoras de las comunidades.
- Fortalecer las culturas y tradiciones indígenas.
- Ofrecer a las Mujeres Indígenas de África Oriental una oportunidad para reunirse, aprender, compartir y comunicarse entre ellas.

La conferencia tuvo como resultado varias recomendaciones. Estas implicaban elaborar un plan para el futuro, y pasos hacia la consecución de fondos

para fortalecer la organización tanto regionalmente como en las sub-regiones.

La conferencia de Nairobi probó ser un éxito y hubo una gran demanda de seguimiento para lograr que las mujeres continúen siendo visibles. La conferencia también abrió nuevos caminos de contacto entre las Mujeres Indígenas, y representantes de la sub-región asistieron a varias otras reuniones en 1999 y crearon más consciencia sobre las actividades de las mujeres indígenas de África. Uno de esos foros fue organizado en Lima, Perú, por Chirapaq, una organización no-gubernamental que trabaja para los pueblos indígenas de Perú, especialmente para las mujeres y niños que viven en la pobreza. La reunión de Lima reunió a mujeres indígenas de todos los continentes (por más detalles sobre esta conferencia ver la sección latinoamericana).

Otro evento en que representantes kenianos de AIWO participaron fue el Parlamento Sudafricano de las Religiones del Mundo, celebrado en Sudáfrica del 1 al 8 de diciembre de 1999. La presentación de AIWO se concentró en los pueblos indígenas como hacedores de la paz. Los presentadores de los derechos humanos subrayaron los derechos de las mujeres como derechos humanos. Por lo tanto, las mujeres deben aspirar a abogar por los derechos de la mujer. La conferencia fue beneficiada por la visita del Sr. Nelson Mandela, el ex Presidente de Sudáfrica, la visita del Sr. Nxuma el vicepresidente de Sudáfrica y el Dalai Lama. Fue una experiencia realmente valiosa para los pueblos indígenas africanos.

Red de Abogacía Pastora del Cuerno de África (HAPAN)

HAPAN es una red de abogacía regional formada a raíz de dos reuniones sucesivas que tuvieron lugar en diciembre de 1998 y septiembre de 1999 en Adis Abeba. Los representantes de comunidades pastoras y otras organizacionesque trabajan para promover los derechos de los pastores se pusieron de acuerdo sobre la importancia y el rol potencial que puede jugar el trabajo de abogacía. En la reunión de Adis Abeba, los participantes provenientes de Etiopía, Uganda, Tanzania y Kenia compartieron sus experiencias de abogacía y los logros alcanzados durante la reunión consultiva en Nairobi organizada por el Grupo de Derechos Minoritarios de Londres, Inglaterra.

Lamisión de HAPAN es promover y proteger los derechos de los pastores mediante actividades de abogacía, investigación y cabildeo, y mediante enfoques no partidarios de los temas, promover la imagen del pastoralismo como una forma dinámica de vida y sistemas de producción viables y reconocer su contribución a la cultura y economía nacional. Otros dos importantes objetivos son obtener el reconocimiento y la apreciación del estilo pastoralista de

vida en la formulación política nacional, regional y local e implementar políticas de desarrollo gubernamentales y promover la resolución pacífica de conflictos y de equidad de género dentro y entre los pueblos pastores.

LOS IMAZIGHEN DEL ÁFRICA DEL NORTE

Los *imazighen*, apelados comúnmente y peyorativamente "*bereberes*" son los primeros habitantes de toda el África del Norte y del Sahel. *Amazhig*, singular de imazighen significa "hombre libre".[1] Toda la región, desde las Islas Canarias al hasta el oeste de Egipto y de Burkina Faso al sur se llamaba "Barbaria" que los imazighen llamaban Tamazgdha. Al norte, en el clima mediterráneo, las poblaciones son sedentarias, al sur, en la región desértica, las poblaciones son nómadas.

Tamazgdha ha conocido varias ocupaciones: fenicia, romana, vándala, árabe, turca, española, francesa. Durante la colonización francesa desde el siglo XIX al siglo XX, Tamazgdha a sido dividida en estados, los mismos de ahora. Las Islas Canarias (España), Marruecos, Argelia, Túnez, Egipto, Malí, Níger, Burkina Faso, Mauritania, Sahara Occidental. Con la invasión árabe en el siglo VII y las fronteras coloniales, las poblaciones amazigh se refugiaron en las regiones más inaccesibles, montañosas y desérticas.[2] Así encontraremos entre estas poblaciones algunas que han salvaguardado su lengua y su cultura y que no han sido arabizadas: los *rifain*, los *chleuh*, los *soussie*, los *rgibis*, los *tuareg*, los *cabilas*, los *mozabitas*, los *djerbien*, los *chawis*, los *nefousis*, los *siwis*, etc. Se estima –en ausencia de un censo sobre criterios étnicos o culturales- la población amazigh en cincuenta millones de habitantes en la totalidad del territorio del África del Norte y del Sahel. Ellos no representan más que islotes lingüísticos. Es por eso que incluso en el seno de las Naciones Unidas, se habla de las minorías beréberes y no se habla de pueblos indígenas. Travestir esta realidad histórica se convierte en cultivar la política de los invasores: dividir para reinar.

Tamazight, que es la identidad, la cultura y la lengua del pueblo amazigh, nunca ha estado en libertad de desarrollarse, peor, siempre ha sido prohibida en nombre de una dominación reconocida o de una colonización que no menciona su nombre. Cuando la independencia de los estados de África del Norte y del Sahel, el pueblo amazigh creía que recuperaría al fin su identidad y su patrimonio cultural. Fue peor, en nombre del nacionalismo árabe y musulmán, la historia ha sido falsificada, (como durante la colonización francesa para beneficio de la identidad francesa) glorificando el arabismo y sacralizando

la lengua árabe; e institucionalizando los textos y las leyes fundadas en la ley islámica. Estos textos (Código de la Familia de Argelia), o bien no corresponden para nada o bien son totalmente contrarios a la sociedad amazigh y sus normas. Tamazight será prohibido de citar y los imazighen que reivindicaban sus derechos fundamentales fueron duramente reprimidos. El desconocimiento de pueblos amazigh en la escena internacional está debido igualmente a su exclusión de los medios que eran (y son todavía en la casi totalidad de los países) el monopolio del estado. Es necesario reconocer que la llegada de Internet ha contribuido en forma considerable a hacer conocer al pueblo, la cultura y la lengua amazigh.

A comienzos de las independencias, los estados habían heredado, en base a sus poderes coloniales, tierras y recursos arrancados a los pueblos indígenas. En lugar de restituirlos a sus propietarios, los nuevos dirigentes se repartieron esas tierras. En cuanto a los recursos, los mismos se transforman automáticamente en bienes del estado, el cual, multiplicando los "planes de desarrollo " destruye gran cantidades de tierras mediante la implantación de zonas industriales sobre las tierras más productivas. Las raras producciones locales fueron desalentadas por la política de los gobiernos. La economía y el comercio revertieron a los dirigentes y a sus acercados, ellos favorecen la importación de productos foráneos. El África del Norte, llamada desde antaño "El granero de Roma" se convierte de golpe en un simple consumidor de productos de importación. Esto engendrará desplazamientos de poblaciones de las regiones del norte hacia las regiones urbanas o a la emigración. En cuanto a los tuareg, la sequía de los años 70 y la guerra realizada por los gobiernos de Malí y de Níger provocaron un éxodo masivo de las poblaciones para refugiarse en Argelia, Mauritania y Burquina Faso. A consecuencia de la desviación de la ayuda internacional que les estaba destinada, los tuareg se rebelaron a comienzos de los años 90, lo cual acentuó los desplazamientos forzados de población. Todas estas políticas no tenían otro objetivo que la deslocalización de los pueblos indígenas aferrados a sus valores y a su propia cultura, organización, relación con la tierra, con el Espíritu, etc.

En 1994-1995, se habían firmado acuerdos de cese-el-fuego entre los movimientos tuareg y los gobiernos de Malí y Níger. Estos acuerdos preveían el retorno de los refugiados, la reintegración de los combatientes y el desarrollo de las regiones tuareg, al norte del país. Hasta hoy, nada se ha hecho. Los refugiados son acantonados en los suburbios de las ciudades de Argelia, Burkina Faso y Mauritania, sin ningún recurso, ni educación para los niños en un hábitat precario. Abandonados a diversas enfermedades contagiosas, como la tuberculosis, el SIDA y las enfermedades infantiles, la población

tuareg está en vías de extinción. A eso se suma la tasa de natalidad que se aproxima a cero.[3]

Bajo la colonización española, las Islas Canarias conocen la misma obligación al éxodo y al exilio.[4] Casi un tercio de la población amazigh canaria (para una población total de 1.631.798 habitantes) emigró a Venezuela y a América Latina, dejando lugar a una misma cantidad de extranjeros que se apropiaron de las principales fuentes de ingresos de las islas. Las riquezas de las islas no benefician de ninguna manera a los pueblos indígenas, que constituyen un 30% de los desempleados y no tienen ninguna oportunidad para la autonomía, la banca española controla y mantiene todos los beneficios. Paralelamente existe una multiplicación de las bases militares que irrita e inquieta a las poblaciones indígenas. Contrariamente a otras regiones del continente europeo, las Islas Canarias no son reconocidas en su especificidad amazigh, como es el caso de Cataluña, Galicia, el País Vasco y otras regiones de Europa. La lengua tamazight no es ni reconocida ni enseñada, violando así la Carta Europea de lenguas regionales y minoritarias.

La situación de Marruecos ha sido hasta la muerte de Hassan II catastrófica: opresión, repatriación, desaparición de personas, torturas, violación de los derechos fundamentales, etc. A causa de la proclamación de la "República de Tribus Confederadas del Rif" el 1º de febrero de 1921, las poblaciones amazigh de Marruecos estuvieron excluidas de la vida social y política del país hasta nuestros días. Esta exclusión implicará una pauperización, una analfabetización, un abandono total de estas poblaciones al fin de la sumisión. La mano de hierro del rey impedía, si no prohibía totalmente, al Movimiento Amazigh de reivindicar sus derechos: cuando los militantes no eran asesinados, eran arrestados, torturados y encarcelados, operaciones seguidas de represalias contra las poblaciones civiles. La arabización y la prohibición de la lengua indígena, el tamazight, engendraron una analfabeltización casi total de las poblaciones amazigh que representan la mitad de la población total del país. Los nombres de las personas y de localidades son prohibidos, las transcripciones en tamazight son severamente reprimidas, las publicaciones son prohibidas. Recientemente, se elaboró un proyecto denominado "Carta de la Enseñanza y la Formación". ¿Es un nuevo comienzo o bien como lo dejan entender, una arabización más eficaz? Las poblaciones amazigh no tenían otra opción que acantonarse en estas regiones pobres (Sur, Alto Atlas, Rif) o –como todas las poblaciones amazigh- partir hacia un largo exilio.

769

En Argelia, la situación es más dramática. La arabización de las poblaciones ha dado resultados catastróficos, no solamente en materia de educación, sino también y sobre todo lo que podemos constatar hoy: el nacionalismo árabe exacerbado, el integracionismo, el racismo y discriminación, el terrorismo, el analfabetismo, la aculturación de las poblaciones amazigh. Argelia siempre quiso ser más árabe que los árabes, más islámica que los islámicos. Es así que había comenzado por la falsificación de la historia del África del Norte, asimilándola al mundo árabe y separándola de su continente: África. Es esto lo que provocará todas las dificultades de hoy. En los años 80, el gobierno argelino reprimió duramente a los militantes amazigh y a sus poblaciones.[5] (300 arrestos y detenciones arbitrarias, torturas, violaciones, etc.[6]) que rehusan toda asimilación y reivindican su propia identidad y su cultura ancestral. El 5 de julio de 1998, después del asesinato del líder amazigh, el cantor Lounès Matoub, el poder argelino relanzó la arabización mediante una aplicación inmediata. Las poblaciones amazigh habían reaccionado violentamente, dando así un pretexto al gobierno para ciegas represiones, amenazas del Jefe de Estado, etc. Hoy, el nuevo presidente, a quien las poblaciones amazigh habían esperado y sostenido mucho durante las elecciones presidenciales, se presentó en la Cabilia (región amazigh al este de Argelia) y declaró el 3 de septiembre de 1999 que "jamás el tamazight será oficial... no será nacional más que por vía de referéndum". Esta declaración sigue a otra en ocasión de su pasaje por la misma región en la cual declaró "desde lejos, yo los veía como gigantes, desde aquí no los encuentro más que enanos". La discriminación está entonces oficializada. Esta actitud provocó la cólera de las poblaciones amazigh, tanto en Argelia como en el extranjero lo cual, por lo tanto, es un riesgo de desborde después de estas declaraciones y si el Jefe de Estado realiza un referéndum sobre la lengua amazigh que es la lengua materna e indígena de los imazighen. Sobre el plan socioeconómico, es imposible constatar cuáles son las líneas sobre la miseria de las poblaciones amazigh que no aceptan la arabización, ni la integración, ni participan en las guerras civiles o de poder, ni de ninguna ideología. No obstante, la prostitución, la pedofilia, la droga, los abusos de poder, el hambre, la precariedad son definitivamente introducidas en esta región. ¿Será esto un substituto de las represiones de las fuerzas armadas y de los grupos armados?

¿Se puede hablar de los imazighen en Libia, en Túnez, en Egipto, donde se encuentran minorías de habla tamazight frente a los imazighen asimilados y aculturados y que son privados de toda libertad de expresión? Los pocos universitarios que han tomado la iniciativa de dedicarse a un estudio donde las

770

investigaciones estaban confrontadas a vigilancias constantes de los servicios de policía o especializados, con miedo de verlos difundir una información objetiva al extranjero respecto a la cual estos estados no tienen ningún control, como la nueva tecnología de la Red. Sin embargo, en numerosas regiones (en estos países), los imazighen no hablan ni comprenden nada más que el tamazight que es el origen de su lengua materna de expresión, de trabajo y de sueño. Esperando algunas aperturas en estos países, será muy difícil darles más información sobre sus hermanos.

A nivel internacional, la negativa de muchos gobiernos a reconocer a los imazighen sanciona doblemente a aquellos que están exilados o han emigrado, ya que son injustamente considerados como árabes o fundamentalistas. Con respecto al desarrollo, la negativa de reconocer esta especificidad no-árabe, amazigh, impide al pueblo amazigh y a sus organizaciones obtener cualquier tipo de ayuda internacional para proyectos de desarrollo, la promoción de la producción local, salud y derechos humanos. De la misma manera, la timidez de las Naciones Unidas para reconocer la identidad y cultura amazigh ha contribuido considerablemente a su asimilación y a la continua hegemonía y opresión.

Hoy, los gobiernos de África del Norte y del Sahel no demuestran ningún coraje ni voluntad política para la restitución de los derechos fundamentales a los pueblos indígenas y a las minorías. Cuando no se impide la realización de conferencias y de jornadas de estudio sobre los Derechos de los Indígenas, o no se desinforma a la opinión nacional, la noción se hace tabú. Por consecuencia. La solución requiere primeramente que las Naciones Unidas reconozcan y estatuyan sobre los pueblos indígenas. Porque, sin un reconocimiento internacional, nosotros seremos siempre tributarios de la voluntad de los dominadores. Las Naciones Unidas deben identificar a todos los pueblos indígenas y citarlos como a todos los otros pueblos en los discursos y documentos oficiales, poniendo atención de no reducirlos a "*pequeños detalles*". El reconocimiento en el escenario internacional incitará ciertamente a los gobiernos refractarios a realizar esfuerzos para crear espacios de diálogo constructivo y no de adversidad.

Notas

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771

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ETIOPÍA

Los oromo

El sentimiento popular es que los regímenes pertinentes de África excelen solamente en calificar a los malos tiempos que reemplazan con el inmerecido estatus de "los buenos tiempos antiguos".

Los niveles deteriorantes de pobreza que rayan en el hambre, la continua y violenta opresión de toda forma de oposición y las cada vez más profundas animosidades intergrupales que pueden llevar a la violencia sectaria han caracterizado a Etiopía en el año 1999-2000. Para empeorar las cosas, el régimen de Adis Abeba, de diez años de antigüedad, está determinado a seguir los pasos de todos los regímenes dominados por los abisinios que han gobernado el estado-imperio de Etiopía durante siglos. La propensión estatal a proceder con las mal ubicadas glorias de la guerra han rendido la esperanza *oromo* de condiciones de vida decentes, cautivos de los antojos de los eternos señores de la guerra convertidos en líderes de Etiopía.

La nación oromo tiene una población estimada de 28 millones de personas o sea un 40-50% del total de la población de Etiopía. Un pequeño segmento de la nación se encuentra en la República de Kenia. Es la única etnonación mayor de la mitad oriental de África y la segunda más grande del continente. Los oromo pertenecen al mismo grupo etno-lingüístico que incluye a los *somalíes*, los *beja* y los *sidama* del nordeste de África.

El territorio oromo se extiende desde la latitud 13 grados norte, no lejos de la frontera entre Etiopía y Eritrea y continúa pasando el ecuador hasta el arroyo Galana apenas al norte de la ciudad costera keniana de Mombassa. Sin embargo, la mayoría de los oromo están concentrados en la mitad meridional más fértil de Etiopía .

Génesis de una triple alienación

Como la España imperial en las Américas, no fue el comercio sino una misión basada en la conquista para "salvar" por la fuerza a los nativos de los "males" de su estilo de vida indígena y su espiritualidad, la que puso a los

772

oromo bajo el gobierno de los "semitas" cristianos abisinios (el pueblo gobernante de Etiopía). Así como los dos son esencialmente imperios teocráticos, los dos regímenes emplearon modelos similares de colonización para financiar sus respectivas misiones. El sistema español de la *encomienda* tiene su equivalente en el sistema abisinio *gabbar*. Ambos están centrados en la triple alienación: la extinción del título nativo sobre la tierra, el trabajo conjunto de la unidad familiar y el reemplazo de la identidad nativa por el alma "bendita" de los conquistadores. La combinación de la tierra enajenada y el trabajo familiar esclavizado formaron estados de propiedad de la corona, conocidos como estados-*goolt* en Etiopía y *encomiendas* en la América hispana. Tales estados de la corona etíope generaron *gibbir* o ingresos para la misión. Desde la segunda mitad del siglo XIX, las familias asignadas a los estados-*goolt*, como las *encomendadas* indígenas de la América hispánica, no constituyeron más que esclavos de propiedad de la corona.

El efecto neto de tal "contacto" ha sido la enajenación económica así como la alienación de la identidad o espiritualidad indígenas. Por lo tanto, tal legado sustenta la actual identidad y el empobrecimiento de recursos de la nación oromo.

El inamovible estatus de triple alienación, a pesar de la alternación de regímenes en el centro y los efectos económicos y sociales menos que ideales que engendraron, siguen siendo la característica dominante en las relaciones Oromo-Etiopía durante este período. Los continuos esfuerzos y demandas oromo por la reversión de su condición impuesta, como es ilustrado por el actual llamado realizado por el parlamento *Gada* (una pálida imitación de lo que una vez fuera el gobierno indígena de los oromo ha sido el tema central este año.

Los oromo en Kenia

Los *boran, gabra* y *tana-orma (wardai)* son segmentos de los oromo que una vez formaron parte del África Británica Oriental. Comparten muchas de las condiciones postcoloniales que afectan a los grupos marginales y pastores como los *maasai*, los *turkana* y los *samburu* en Kenia. El modelo británico de colonización condujo a la extinción del título nativo sobre la tierra y al trabajo (para la corona británica). Tales tierras se convirtieron en establecimientos agrícolas de los colonos británicos. El registro y la adjudicación de la fuerza de trabajo nativa a las granjas coloniales condujeron a lo que algunos llaman en la práctica "esclavitud posho" (*posho* es el alimento de maíz que se le daba a la fuerza de trabajo nativa). Los legados de la enajenación de tierras nativas todavía tienen que ser completamente revertidos ya que el estado postcolonial

773

Parlamento indígena oromo (Gada) en sesión (Foto: Liban Wako Adi).

de Kenia ha asumido el estatus de la corona *de facto*. La creación del comité del parlamento keniano que analiza los títulos de la tierra ha sido notable durante este año.

La posición de las mujeres

En la era previa a la conquista, la condición de las mujeres oromo eran dictadas por normas patriarcales y sexistas asociadas con muchas culturas. La poligamia sigue siendo una práctica común, especialmente en las comunidades oromo musulmanas. La propiedad y los derechos de herencia eran generalmente el dominio del hombre. Como resultado, una asociación informal femenina conocida como *Siqqee* ha desafiado las opresiones basadas en el género. Hoy, como parte de la resistencia oromo contra los ocupantes abisinios, existe una creciente participación femenina tanto en los esfuerzos armados como políticos. La contribución de las mujeres, hasta ahora, ha presentado un dilema. La participación femenina es altamente procurada pero sigue siendo no reconocida y devaluada, según la nacionalista oromo Kuwee Kumsa. El aumento de la participación femenina en la educación en Etiopía y Kenia ha sido significativo.

Soportando la alienación, el evasivo título nativo y la resistencia continua
No existen indicaciones de ningún mejoramiento de las ya precarias condiciones económicas y sociales de los oromo. La pobreza ha empeorado y las condiciones de hambre son generales a causa de las sequías prevalecientes y cíclicas. La situación se ve agravada por la guerra entre Etiopía y Eritrea. El reclutamiento forzado de jóvenes oromo y la apropiación de recursos sustentan a la guerra de Etiopía. Por lo tanto, los niveles de descontento masivo se han intensificado, manifestados a través de signos familiares de ebullición de rivalidades intergrupales.

La marginación política y la falta de un proceso político independiente han conducido a la continuación de la resistencia armada oromo bajo el Frente de Liberación Oromo y otros grupos. Tales sucesos han conducido a un aumento de la violencia sancionada e instigada por el estado contra las comunidades oromo sospechosas de acoger o sustentar a la resistencia. Los encarcelamientos y matanzas extra judiciales de campesinos oromo y miembros de su pequeña clase media han incrementado. Los grupos internacionales de derechos humanos como Amnesty International y Africa Watch han registrado muchos de estos abusos, así como también aquellos informados por activistas locales de los derechos humanos. El fenómeno de celdas de prisión "sin marcar" en la mitad de los suburbios y la desaparición de los opositores políticos se han convertido en una norma.

Geopolítica regional y la causa oromo
La región formaba parte de una rivalidad entre los superpoderes durante el período de la guerra fría. La proximidad de los campos petroleros árabes y el temor de la expansión soviética en el África Sub-Sahariana condujo al casamiento por conveniencia estratégico y militar entre Occidente y Etiopía, bajo el régimen del Emperador Haile Selassie I. Hoy, el fundamentalismo islámico o la amenaza percibida del mismo ha revivido las viejas alianzas político-militares. El año ha contemplado nuevos forjamientos de alianzas interestatales como la de Etiopía y Kenia, orientada a luchar contra lo que llaman los "problemáticos". Se ha informado de forzadas deportaciones de refugiados oromo de los países vecinos al seno de las fuerzas de seguridad etíopes. Lo mismo ha sido la tácita previsión de libre pasaje de escuadrones etíopes de seguridad, con el fin de asesinar a la comunidad oromo y a los líderes políticos asentados en los países adyacentes. Las alianzas regionales o extra regionales han socavado la causa de los oromo y otros grupos no-abisinios que constituyen la gran mayoría de la población total de Etiopía.

Lo que depara el futuro

Las condiciones de triple alienación y todas las formas de resistencia continúan. Existe una modesta pero creciente consciencia del sufrimiento del pueblo oromo en todo el mundo. Están emergiendo organizaciones de autoayuda entre los oromo, en el país y en la diáspora. El papel de la Radio Voz Oromo de Liberación como una fuente independiente de información crecerá. Grupos basados en el exterior como la Asociación de Estudios Oromo, Asociación de Estudiantes Oromo, Grupo de Apoyo Oromo (OSC), Jiru Jireen Afrika, están contribuyendo al esfuerzo nacional. Como los *ogoni* de Nigeria, la causa oromo plantea la restauración del título nativo sobre la riqueza material y espiritual de su nación.

Por más información sobre los oromo, contactar algunos de los siguientes:

Oromo Support Group (OSG), The Willows 6 Orchard Road Malvern, Worcs WR14 3DA UK (Email: 100674.3200@compuserve.com) <www.oromo.org>;
Oromia Online, es un sitio oromo en internet y brinda información sobre la cultura e historia oromo y una actualización regular sobre la situación de derechos humanos. Se puede encontrar en www.oromia.org;
Voice of Oromo Liberation (Radio SBO), Postfach 510 610, 13366 Berlín, Alemania;
Jiru Jireen Afrika (Email: Jirujireen@interspeed.com.au);
Oromo Studies Association, C/- 1643 D Spartan Village, East Lansing, MI 48823, EE.UU.;
Amnesty International; y,
Africa Watch.

KENIA

1999 fue un año importante para los pueblos indígenas de Kenia. Se realizaron importantes discusiones relacionadas con los derechos de los pastores y se inició una amplia gama de actividades para generar consciencia sobre los pueblos indígenas y su situación en Kenia y para mejorar su bienestar y derechos.

El Debate sobre la Revisión Constitucional

En 1997 se decidió revisar la constitución de Kenia y en 1998 se estableció una Comisión de Revisión. Tiene 25 miembros – 13 nombrados por los partidos políticos y 12 por organizaciones cívicas. Los últimos representan un amplio espectro de intereses: 3 vienen de las tres importantes congregaciones

776

religiosas dominantes (católica, protestante e islámica); 5 son nombrados por las organizaciones de mujeres; y 4 son nombrados a través del Consejo Nacional de ONGs y representan a la juventud, los discapacitados, las asociaciones profesionales y los indígenas pastores.

En la Comisión no están representadas las comunidades cazadoras-recolectoras (y otras tribus más pequeñas), el movimiento de trabajadores y los desempleados. Los partidos políticos, por otro lado, no han podido dividir los 13 escaños entre ellos y decidir quién los representaría. Por lo tanto, la Comisión no ha podido comenzar su trabajo.

El Foro Pastoralista de Kenia ha sido activo desde el comienzo y se han organizado una serie de conferencias, seminarios y reuniones para las organizaciones afiliadas en 1999. La idea ha sido informar a los miembros –y mediante ellos a las comunidades pastoras- sobre el proceso, discutir diversos temas y llegar eventualmente a algunas recomendaciones que serán presentadas por su representante en la Comisión. Todos están de acuerdo en que el proceso será difícil y que será una ardua tarea hacer participar a las bases porque mucha gente tiene tan poca comprensión de lo que se trata ¡o pueden incluso no saber que Kenia tiene una constitución!

Algunos de los principales temas para los pastores identificados por KPF son:

- *Tenencia de la tierra y derechos territoriales* incluyendo la explotación de recursos naturales que hoy está en manos del gobierno central pero debería ser devuelta a los habitantes locales que deberían tener el derecho a decidir; recursos de la fauna y de la flora sobre los cuales los locales deberían estar plenamente a cargo de los réditos provenientes de tales recursos.
- *Sistema gubernamental y representación parlamentaria*, donde se pueden encontrar dos posiciones: devolución del poder a nivel local o un sistema federal. Abdi Umar del KPF considera que el 50% de la población estaría a favor, 50% contra la devolución del poder, siendo los últimos los dos grupos étnicos mayoritarios, los kikuyo y los luo.
- *Nuevos criterios para formar los distritos electorales.* Deberían ser definidos porque el sistema actual ha llevado a una enorme sub-representación del 80% del país que está habitado por pastores.
- *Derechos humanos*: los pastores se ven tratados como ciudadanos de segunda clase. Deberían tomarse acciones afirmativas para retrotraer la situación.

777

ción de este tipo de conflictos pero hoy estos conflictos tienden a degenerar en verdaderas masacres y condiciones similares a la guerra porque ambas partes abundan de armas. El problemas es cómo encarar esta nueva situación, ser conscientes de las responsabilidades que uno tiene, los privilegios, los costos de los conflictos, etc. En el norte, las comunidades operan fuera de las estructuras. Los foráneos, que son considerados como invasores, ocupan todos los cargos oficiales – desde maestros a administradores locales. Esto ha hecho que la gente sea sospechosa y hostil. No creen en el gobierno pero viven en un mundo donde las situaciones violentas (a causa del hombre o de la naturaleza) son eventos cotidianos; son vulnerables, el riesgo es el elemento número uno en sus vidas pero la muerte de una persona es normal pues el clan siempre prevalecerá.

Mujer samburu observando a los camellos mientras salen del "kraal" (Foto: Indigenous Information Network).

La política juega un rol importante en alimentar las pequeñas controversias y crear choques étnicos. Es un hecho bien conocido que la mayoría de los políticos de Kenia dependen de una clientela que está basada en vínculos tribales. Su existencia, por así decirlo, depende de la diferenciación tribal y perderían terreno si el tribalismo se extinguiese. Un ejemplo es el de los *ogiek*, cuyo

778

- *Derechos de las mujeres*. Un gran tema es el de los derecho de herencia de las mujeres.

Sin embargo, precisamente ahora el proceso de revisión de la constitución está trancado debido al desacuerdo sobre las modalidades que deberían seguirse para obtener los puntos de vista de las personas. Se espera que el ejercicio sea participatorio e incluya a todos los interesados, expertos y profesionales pertinentes.

Esfuerzos de resolución de conflictos entre los pastores del norte

La enajenación de la tierra, la competencia sobre las áreas de pastura, el ganado, el agua y las políticas están en la raíz de muchos de los conflictos que Kenia ha contemplado durante los últimos años.

El hurto de ganado siempre ha sido una estrategia tradicional de supervivencia económica ya que era la única posibilidad de renovar la manada. Los *moran* (guerreros *maasai* y *samburu*) lo usaban para conseguir ganado para poder pagar el precio de la novia y poder casarse. Ambas razones siguen siendo ciertas en determinada medida. Pero el abigeato también se ha convertido en una actividad sumamente comercializada con armas de técnica avanzada y camiones que llevan el ganado a través de la frontera para ser vendido.

Pueden surgir conflictos étnicos entre tribus pastoras y no-pastoras cuando hay una competencia por los recursos naturales como, p. ej., en Marsabit en el norte, donde diferentes tribus usan los recursos de la montaña Marsabit – algunos para pasturas, otros con propósitos agrícolas. Tales conflictos degeneran a veces en choques étnicos. Esto ha sucedido varias veces entre, por ejemplo, los *maasai* por un lado y los *kisii* or los *kipsigis* por el otro, resultando en la pérdida de muchas vidas humanas, casas incendiadas y pérdida de ganado.

También ocurren choques entre la misma tribu. Pueden darse cuando personas que han sido expulsadas del sistema pastor intentan asentarse y hacer uso, por ejemplo, de un proyecto de irrigación, bloqueando así el acceso a la tierra a aquellos que se han mantenido como pastores. Una situación similar es creada cuando ha habido una parcelación y la gente levanta cercas y practica una cría intensiva de ganado.

Sin embargo, algunos de los más severos conflictos ocurren entre tribus pastoras en el norte, donde la competencia sobre áreas de pastura y agua es severa. Los *pokot-turkana* tienen conflictos sobre el robo de ganado, incluso con la gente que atraviesa la frontera de Uganda. La gente en Isiolo y Marsabit tienen disputas de clanes sobre pasturas y agua. El norte tiene una larga tradi-

hostigamiento por las autoridades locales es considerado una represalia por no haber aceptado unirse a los kipsigis en su ataque contra los *kikuyu* a mediados de los años 90.

Actualmente se hacen esfuerzos para mejorar la situación. Se ha establecido una Comisión Judicial para investigar los choques tribales desde 1991 y ya ha habido audiencias testimoniales durante más de 170 días. Aunque probablemente no resolverá nada ni conducirá a ninguna acción, se piensa en general que el ejercicio es útil, pues hace públicos los diversos conflictos.

La resolución de conflictos, la paz y la reconciliación se han convertido en el nuevo mantra de muchas ONGs que trabajan en el norte. Se organizan reuniones, seminarios y talleres para que los representantes de las diversas tribus puedan encontrarse, discutir e intercambiar ideas sobre cómo pueden solucionar sus disputas. Todo el proceso parece más bien impulsado por los cooperadores. Sin embargo, parece que mientras muchos ancianos están muy comprometidos y asisten a un taller después del otro, los más jóvenes, es decir, el grupo de edad de los guerreros que están en el centro del problema no parecen interesados y continúan haciendo lo que les parece. Y con una población creciente y una competencia ambiental constantemente deteriorante se harán aun más feroces. Por lo tanto, algunos hablan de la necesidad de sistematizar cómo un clan puede recibir o sacar a otros clanes de sus territorios. Esto presupone el reconocimiento y demarcación de las tierras clánicas y el uso de las leyes y reglamentaciones consuetudinarias.

La Ley de Adjudicación de Tierra a los Iloodoriak

Mientras que existe una enajenación de la tierra o una amenaza de esta en la mayoría de las áreas maasai, es cerca y en torno de Nairobi que la situación es más grave, ya que la tierra tiene muchos potenciales de desarrollo y un alto valor si es puesta en el mercado. La tierra de la comunidad *iloodoariak* está a unos 20 km. de Nairobi, cerca de los atractivos suburbios de Karen y Ngong. Esto explica por qué personas ubicadas muy elevadamente estaban interesadas en declarar al Rancho del Grupo Iloodoriak una Sección de Adjudicación en 1979. En realidad, esto hacía posible reemplazar el viejo Registro de Tierras que tenía los nombres de todos los miembros del Grupo del Rancho originales por uno nuevo donde alguno de los nombres de los miembros eran sustituidos por foráneos, en su mayoría personas de alto rango sin ninguna conexión con la tierra, quienes luego recibían títulos de propiedad.

Comprendiendo lo que había sucedido, la comunidad iloodoariak comenzó a luchar. Con el apoyo de IIED (Instituto Internacional del Medio Ambiente y Desarrollo) y Survival International, documentaron su caso y redac-

taron un proyecto de ley. Esta ley encara la situación no sólo de los iloodoariak sino también de otros grupos pastores en general, al permitir la nulificación de los títulos basados en usurpación fraudulenta de tierra. La ley también prevé un mecanismo para que los habitantes locales puedan dar su opinión sobre cómo la tierra es administrada. Como la mayoría de la tierra está en áreas de pasturas, si se convierte en ley no habrá ninguna usurpación.

Durante los pasados dos años, los iloodoariak han estado haciendo trabajo de "lobby" para que sea publicada y presentada al parlamento y en mayo de 1999 la ley fue finalmente publicada en el suplemento de la Gaceta de Kenia. Esto significaba que la ley estaba disponible para la reacción pública.

El 4 de julio de 1999, el Proyecto de Ley fue presentado al Parlamento para una primera lectura. Pero después la ley desapareció y parece que no habrá una segunda y tercera lectura. Esto parece ser el resultado del nombramiento de una Comisión de Tierra a fines de junio por el equipo de recuperación de la economía encabezado por el Dr. Richard Leakey. Esta comisión tenía que examinar el tema de la usurpación de tierras. Sin embargo, de acuerdo al Sr. Joseph Ole Simel, coordinador del programa de iloodoariak, esto fue realmente una acción calculada para matar la ley. No sólo la comisión puede hacer recomendaciones, sino que la ley no puede volver al parlamento antes del fin de la tenencia de la comisión lo cual es hasta dentro de dos años y coincidirá con el fin del actual parlamento. Además, la familia del Dr. Leakey está involucrada en el tema de la usurpación de tierra y es, por lo tanto, una parte interesada y no es la persona apropiada para encarar este tema.
No obstante, los Fundadores de la Ley de Tierra Iloodoariak han realizado al menos un logro. A pesar de ser un grupo pequeño, hicieron que el gobierno admitiera que habían habido irregularidades.

Los abogados están preparando ahora un memorándum para ser presentado a la Comisión de Tierra, destacando que la única solución es que la ley propuesta sea presentada al parlamento para una segunda y tercera lectura. Los iloodoariak están también haciendo llamados por apoyo local e internacional para presionar al gobierno para que resuelva el problema de tierra pendiente.

Si la meta pretendida de obtener la aprobación de la Ley de Enmienda de la Adjudicación de tierra es lograda, será el mayor logro de los pueblos indígenas de Kenia en el siglo XXI.

El entrenamiento militar pone en peligro a los pueblos indígenas

Los ejércitos de Kenia, Gran Bretaña y los EE.UU. – bien como una empresa conjunta o cada país por separado, han usado regularmente durante muchos

781

años las áreas abiertas de los distritos de Laikipia, Samburu, Isiolo, Marsabit y Moiyale para ejercicios militares. Los ejercicios son realizados todos los años entre los meses de enero-junio y septiembre-diciembre.

Los entrenamientos son realizados sin tomar en cuenta los modelos de asentamiento y sin previa consulta con la población local. Durante los ejercicios los militares dejan abandonadas muchas municiones sin explotar. Estas municiones han matado o herido a muchas personas y animales que pastan.

El último incidente sucedió el miércoles 19 de abril cuando cuatro niños fueron muertos por poderosos explosivos del campo de entrenamiento del ejército británico en el área de Archers Post, en el distrito de Samburu. Un quinto niño perdió su pierna y también una cantidad desconocida de ganado resultó muerta o herida. Más de 500 residentes del centro de entrenamiento de Archers Post montaron una marcha de protesta el viernes 21, demandando compensaciones para las familias afectadas desde el comienzo de la operaciones de entrenamiento y que el ejército debería abandonar el área o al menos cercar el campo de entrenamiento.

El medio ambiente es igualmente afectado: los árboles son abatidos, se cava para ejercicios de cobertura, las pasturas son erosionadas o destruidas por el pesado equipo militar, los gases venenosos causan contaminación del agua. Además, los militares sacan agua de las mismas aguadas que las comunidades locales, usando camiones de agua equipados con motores poderosos que facilitan la rápida extracción del agua y así, durante los tiempos de poca lluvia crean escasez de agua que afectan la subsistencia de los pastores y sus animales. Otros efectos perniciosos son los resultantes del uso de drogas y sexo comercial por los militares en los cuales se ven implicadas jóvenes niñas escolares.

Sin embargo, la tierra donde se realizan los ejercicios militares es tierra privada de propiedad comunal y registrada a nombre de varios grupos de ranchos bajo "la ley de representantes de grupo", Cap. 267 de las leyes de Kenia. Es, por lo tanto, una escandalosa violación de los derechos de propiedad privada.

No obstante, un relevamiento realizado por la organización indígena maasai con sede en Laikipia, OSIGILI, muestra que los habitantes locales no tienen ningún medio para encarar estos temas debido a la falta de conocimiento o temor de hostigamiento de las autoridades. Por lo tanto, OSIGILI ha decidido embarcarse en una campaña para publicar los hechos y celebrar un seminario regional con representantes de los grupos pastores afectados y representantes de ONGs para documentar y explorar más el impacto de los entrenamientos militares sobre los derechos de los grupos pastores sobre sus tierras tradicio-

nales, su supervivencia y temas relativos a su medio ambiente y recursos naturales.

El caso de los ogiek

El pueblo *ogiek* del Rift Valley central de Kenia ha perdido la primera parte de su batalla legal sobre su hábitat y patrimonio. Una corte keniana entregó una sentencia el 24 de marzo del 2000 que los jueces caracterizaron como beneficiosa para el medio ambiente después de que la comunidad indígena trató de bloquear una evicción del gobierno para sacarlos de un bosque natural. "La evicción tiene el propósito de salvar a toda Kenia de un posible desastre ambiental y está siendo realizada por el bien común dentro de los poderes estaturarios", dijeron los jueces Samuel Oguk y Richard Kuloba en su sumario de la sentencia. Los jueces dijeron que su veredicto estaba dirigido a la gente que había constituido hogar en los bosques y está explotando recursos forestales sin los consiguientes requisitos estaturarios. No obstante, los ogiek tienen tierras alternativas que les fueron dadas en la época colonial, tierra que no es inhospitalaria, dijeron los jueces.

El pueblo ogiek vive en los bosques en la zona escarpada de Mau, en Kenia, 250 kilómetros (155 millas) al oeste de Nairobi. Son identificables por su distintivo tradicional de cuero y un bastón de mano, todavía mantienen su estilo tradicional de vida y consideran al bosque natural como su hábitat. Estos bosques son uno de los más importantes ecosistemas forestales y acumuladores de agua que quedan en el país. Por tradición, los ogiek, frecuentemente referidos como *dorobos*, son un pueblo cazador-recolector, conocidos como recolectores de miel, que usan para el consumo familiar e intercambian con sus vecinos. Han vivido en estos bosques desde tiempos inmemoriales y son prácticos conservacionistas.

Atrapados entre un conflicto cultural y desequilibrios políticos aparejados por la modernidad y la civilización, los ogiek llevaron al gobierno de Kenia a la justicia por expulsarlos de su tierra forestal ancestral, el pasado mayo (1999), el Consejo de Bienestar Ogiek exige que a los ogiek de Tinet se les permita permanecer en el Bosque Tinet. Esto comprende a 5.016 miembros de la comunidad y otros 800 ogiek adicionales no incluidos en la lista de la corte.

Los ogiek fueron alarmados por un grupo de individuos corruptos que invadieron su tierra forestal antes de que fueran expulsados por el gobierno. Según su punto de vista, el gobierno no es honesto cuando dice que está protegiendo al medio ambiente para el bien común. Los ogiek acusan a algunos individuos poderosos cercanos a los principales políticos de querer usur-

783

par su tierra ancestral. Aunque los ogiek derramaron lágrimas sobre la pérdida de su tierra ancestral, grandes porciones de esta tierra ya habían sido tomadas de la tierra forestal y entregadas a individuos privados.

Demandaron al gobierno buscando una declaración de que su derecho a la vida ha sido contravenido por una evicción forzosa del bosque. También buscaban órdenes para que el gobierno los compensara y pagara los costos legales. La corte rechazó todas sus peticiones pero asignó los costos legales al gobierno de Kenia.

Los grupos de derechos humanos acusan al gobierno de ser insensible frente a las necesidades básicas de la comunidad, diciendo que el derecho de los ogiek a la tierra y al hábitat natural ha sido pisoteado durante demasiado tiempo. Han recurrido al gobierno para que revoque la evicción para que la comunidad pueda vivir en paz en el bosque.

El 5 de mayo, los demandantes fueron escuchados, representando a los 5.016 miembros de la comunidad ogiek de Tinet, a través de su abogado Joseph Seregon, asistido por el abogado Mirugi Kariuki, quien representa a la Diócesis Católica Nakuru y a quien se le permitió participar en este caso debido a las "inversiones substanciales" (es decir, iglesias, escuelas, mercados) en el área. En su sentencia del 5 de mayo, la Corte de Apelaciones de Kenia ordenó una detención de la ejecución del Decreto de la Alta Corte del 23 de marzo del 2000. Por lo tanto, el Gobierno de Kenia se vio impedido de expulsar al pueblo ogiek, pendiendo la determinación de una futura apelación.
El Ministro de Justicia, el Comisionado Provincial de Rift Valley, el Oficial Forestal Provincial y el Oficial del Distrito de Nakur, quienes habían conjugado esfuerzos para expulsar al pueblo ogiek, ahora tendrán que detener sus planes de reasentar a los ogiek en los bordes del bosque.

La decisión de la Corte de Apelaciones de otorgar a los ogiek un alto de la expulsión fue alcanzada porque se concluyó que una evicción tendría efectos de largo alcance sobre su subsistencia y para evitar un importante trastorno. También fue claramente demostrado que el Oficial Forestal Provincial, un tal Sr. Ezekiel Korir, había mentido al negar que los ogiek habían vivido en el bosque, cuando se presentó una copia del censo de población de 1936 de los Archivos Nacionales de Kenia, mostrando claramente el registro del pueblo ogiek en su territorio del Bosque Tinet.

Pero la detención de la evicción está ahora pendiente de la determinación de la futura apelación. La comunidad, que insiste que ha vivido en y del bosque desde tiempos inmemoriales, todavía tiene que presentar la apelación antes del 23 de mayo.

Existe una urgente necesidad de apoyo internacional para presionar al gobierno a otorgar a los ogiek el derecho a su patrimonio.

Fuentes
Ecoterra news mail "Ogiek Eviction Stopped" de mayo 6, 2000.05.16

Seminario de Educación de Niñas

En muchas partes de Kenia, y más entre los pastores, las niñas enfrentan grandes desventajas en términos de acceso a la educación. La discriminación está arraigada en actitudes y prácticas culturales.

Entre el 6 y el 8 de diciembre de 1999 IIN (Red de Información Indígena) organizó un Seminario sobre "Dificultades para la Educación de Niñas en las Comunidades Pastoras".

La Organización de Desarrollo de Holanda (SNV) patrocinó el seminario mientras que la Red de Información Indígena lo planificó, coordinó y condujo. Antes de esta reunión, INN había consultado diferentes comunidades sobre las dificultades de la Educación de las Niñas en el contexto de las áreas pastoras.

Los miembros de las comunidades compartieron sus experiencias sobre Educación de Niñas. Expresaron perspectivas cruciales y únicas, que fueron luego discutidas en el seminario por los líderes de los departamentos de educación de las ONGs y los miembros comunitarios de las áreas pastoras, cubriendo una amplia gama de temas con especial énfasis en la situación en los distritos de Samburu, Isiolo y Marsabit. También acudieron participantes de los distritos de Pokot, Kajiado y Laikipia.

Los objetivos específicos eran promover la educación de las niñas; compartir información con otros suministradores de educación y discutir formas de monitorear y evaluar la conducta de educación por los interesados.

El seminario presentó diversas estrategias para resolver los problemas educativos que enfrentan las niñas. Entre estas se incluyen: hacer accesible la educación mediante el patrocinamiento y becas; adaptar los programas escolares a las comunidades pastoras; cambiar las actitudes respecto a la educación, es decir, la educación es para el conocimiento y no primariamente para el empleo; proveer escuelas y maestros móviles; alentar la educación no-formal; y otorgar un proyecto separado de becas a las áreas pastoras.

INN quiere encarar el problema de brindar educación en una forma y enfoque apropiados para las niñas de una manera de costo efectivo. Este es un reconocimiento de la necesidad de tomar la iniciativa de brindar educación

785

formal a los grupos marginados para permitirles participar efectivamente en el proceso de desarrollo. Para iniciar el proceso, INN tiene la intención de continuar celebrando seminarios de conscientización sobre la educación de las niñas.

LA REGIÓN DE LOS GRANDES LAGOS

Durante 1999, no ha habido una mejora significativa en la situación de las comunidades indígenas de la Región de los Grandes Lagos. De todos modos, las organizaciones indígenas han estado activas, promoviendo la concientización nacional e internacional y presionando por cambios.

Redes de Trabajo

El año pasado se pudo ver un incremento en el nivel de redes de trabajo y en los contactos entre grupos indígenas. En junio de 1999, las organizaciones *twa* ruandesas y congolesas CAURWA y PIDP colaboraron en una gira conjunta para reunirse con las comunidades *twa* y las autoridades locales en Uganda, Burundi, Ruanda y la región Kivu de la República Democrática del Congo. Los contactos fueron retomados en las celebraciones del 7º Día Internacional de los Pueblos Indígenas, organizado por la PIDP, en la isla de Idjwi, Kivu, en septiembre de 1999, que reunió a 450 representantes *twa* del Congo, Burundi y Rwanda, como también oficiales locales y ONGs.

También en 1999, PIDP y la organización camerunesa *bagyeli* CODEBABIK colaboraron en una gira financiada por IWGIA a Camerún, la República Centro Africana y Gabón, para visitar las comunidades *pigmeas* y las organizaciones que trabajan con ellos. En febrero del 2000, la CAURWA visitó nuevamente a las comunidades *twa* ugandesas cerca de los Parques Nacionales de Mgahinga y Bwindi como también a las autoridades locales y grupos religiosos, llevando literatura y educación a los *twa*. Los *twa*, que han sido desalojados de los parques nacionales, no tienen tierra y ya no tienen acceso a los recursos forestales. Llevan adelante una miserable existencia trabajando en la tierra de otra gente a cambio de comida, y se enfrentan a una continua discriminación por parte de otros grupos étnicos. Estas comunidades establecieron ahora la Organización Unida para el Desarrollo de los Batwa en Uganda (OUDBU), para fortalecer sus voces de presión por tierra, para su emplazamiento. Los representantes de la OUDBU están en contacto con las organizaciones *twa* de Ruanda, con quienes comparten el mismo lenguaje. Un estudio de los *twa* de la región de los Grandes Lagos[1] realizado por un grupo dedica-

786

do a los derechos de las minorías, seguido por un taller en Kampala, reunió a representantes *twa* de Ruanda, Burundi y Congo. Los participantes desarrollaron un plan regional para la enseñanza y promoción de los derechos humanos.

Todas estas actividades de trabajo en redes han ayudado a fortalecer la solidaridad entre las organizaciones *twa* y *pigmeas* de Africa central, promoviendo trabajo conjunto e intercambio de información y experiencia entre diferentes grupos *pigmeos* que viven en diferentes condiciones.

Apoyo

Durante el año *twa*, los representantes de *mbuti* y *bagyeli* asistieron a numerosas reuniones internacionales y regionales sobre derechos indígenas incluyendo el Grupo de Trabajo de las NU sobre Pueblos Indígenas, en Ginebra en julio de 1999 y el Grupo de Trabajo de las NU sobre la Declaración Preliminar sobre Derechos Indígenas, en Ginebra en noviembre de 1999; una reunión del Consejo Mundial de Iglesias sobre Pueblos Indígenas Africanos: Tierra y Espiritualidad, en Kigali en septiembre de 1999; una Conferencia sobre Mujeres Indígenas, en Nairobi; un taller del Banco Mundial sobre Pueblos Indígenas de Africa, en Kampala en junio de 1999; y una reunión organizada por la Organización Mundial de la Salud sobre Salud de los Indígenas. El PIDP fue nominado para participar de un comité de asesoramiento indígena establecido por la reunión de la OMS.

Los representantes indígenas centro africanos están colaborando en una revisión y evaluación de la implementación de la Política para los Pueblos Indígenas del Banco Mundial (Directiva Operacional 4.20) organizada por la ONG británica Forest Peoples Programme y el Centro de Información de un Banco con sede en Washington. Los representantes *bagyeli* y *twa* prepararon estudios de casos respectivamente sobre el impacto sobre el pueblo *bagyeli* en el sudoeste de Camerún, del oleoducto Chad-Camerún asegurado por el Banco Mundial, y los proyectos financiados por el Banco Mundial sobre cría extensiva de ganado y cultivos comerciales, los cuales desplazaron a los *twa* que habitaban los bosques (Impunyu) de Gishwati, en Ruanda. Se está realizando un estudio adicional por parte del Forest Peoples Programme, en consulta con las comunidades *twa* ugandesas, sobre el impacto del Mandato de Bosques Impenetrables de Mgahinga y Bwindi financiado por el Banco Mundial, que supuestamente debe llevar adelante actividades tendientes a eliminar los impactos de los parques en los *twa*. En total 12 estudios de caso han sido presentados por los pueblos indígenas del mundo ante el Banco Mundial en mayo de 2000, con el deseo de determinar por qué los principios y prácticas estableci-

787

das en la Política para los Pueblos Indígenas no están siendo implementadas, y para presionar al Banco para que modifique aquellos proyectos que están dañando a los pueblos indígenas.

Para facilitar la plataforma para la ayuda *twa* y la difusión de la información, la ONG de derechos humanos congolesa Héritiers de la Justice en colaboración con el Forest Peoples Programme creó una página web pigmea en www.heritiers.org. La página se encuentra bajo la supervisión editorial de las organizaciones pigmeas CAURWA, PIDP y CODEBABIK. Agregado a esto, un corto video "Hombres de Arcilla: los *twa* de Ruanda", que ubica a los twa en el contexto internacional del movimiento para los derechos indígenas, está siendo producido por CAURWA en colaboración con el Forest Peoples Programme.

Ruanda

A nivel nacional CAURWA ha continuado buscando el reconocimiento de los problemas de los *batwa* y la legitimidad de referirse a los *batwa* por su nombre, logrado esto, este grupo minoritario no significa ninguna amenaza política para la estabilidad de Ruanda. La CAURWA tomó la iniciativa de escribirle una carta al presidente de Ruanda presentando los problemas de los *batwa* y resaltando la falta de cambios significativos en la situación de los *batwa* desde que la nueva administración accedió al poder hace 5 años. Los representantes *twa* protestaron que el Comité para la Unidad Nacional y la Reconciliación se centró únicamente en las dos comunidades étnicas más numerosas, el Comité está trabajando con los representantes *twa* para llevar adelante visitas a las comunidades *twa* para asistirlas en cómo están siendo incluidas o no en la reconciliación post genocidio y la consiguiente reconstrucción de una sociedad integrada. El incremento en las actividades y contactos con autoridades por parte de las organizaciones *twa* ha generado un perfil más alto para la Nación *twa* a través de las transmisiones de radio y TV. Una revista independiente del servicio BBC de Ruanda, recomendaba una gran cobertura de los intereses de las minorías incluyendo los asuntos *batwa*, y la participación de los *batwa* en la producción del programa.

La situación general de los *twa* se mantiene incambiada, con muchas comunidades sin tierra, acceso a educación o empleo. Los *twa* son aún severamente marginados en la sociedad. Muchos donantes no están al tanto de la incapacidad de los *twa* para acceder a planes de desarrollo. A nivel comunal, los programas gubernamentales frecuentemente no llegan a los *twa*, quienes a su vez, no tienen la confianza y el nivel suficiente para reclamar su inclusión

188

en los mismos. Los *twa* son muy dependientes de las organizaciones *twa* para asegurar que sus intereses sean comunicados.

Se está implementando un programa nacional para el asentamiento de los caseríos en poblaciones estables, aparentemente para proveer servicios más efectivos y mejor aprovechamiento de la tierra. Los caseríos que se encuentran normalmente desparramados por las colinas deben cambiar sus tierras por un terreno en la aldea. De todas formas, la mayoría de los *twa* no tienen tierra y entonces no tienen nada para intercambiar por los terrenos en la aldea. En muchas áreas viven en endebles chozas hechas con palos o tallos de maíz, tal vez con algún recubrimiento plástico, ocupando las esquinas de las tierras y terrenos de sus vecinos terratenientes.

Una de las organizaciones *twa* ruandesas, ADBR, obtuvo autorización para visitar a los presos *twa*, que se estima son aproximadamente 2500. Trabajando en conjunto con la iglesia y organizaciones de derechos humanos, ADBR inspeccionó las cárceles de la gran área de Kigali. Los prisioneros *twa* estaban en condiciones miserables. Sólo dos individuos, de los 150 relevados, habían tenido un juicio. Las familias no tienen recursos para visitarlos, llevarles ropa, jabón o comida. La distribución de frazadas y comida en las prisiones no llega a los *twa*. La ADBR está buscando ayuda en agencias locales para proveerlos de ropa, frazadas y está en contacto con el grupo local de derechos humanos para conseguir un abogado que ayude a mover las causas.

A nivel de base, 20 asociaciones *twa* o cooperativas se han propuesto llevar adelante una serie de actividades comunitarias tales como agricultura, ganadería, alfabetización, alfarería y construcción de casas. Las organizaciones *twa* proveen de respaldo financiero y material para estas actividades. Alrededor de doscientos escolares son actualmente mantenidos por las organizaciones *twa*. La CAURWA está trabajando para incrementar las ganancias de las comunidades alfareras *twa* desarrollando mercados internos y externos para las vasijas *twa*, a través del soporte técnico y de gestión basados en los principios del libre comercio y del establecimiento de un local de ventas en Kigali.

Kivu, Republica Democrática del Congo

La situación en Kivu se ha deteriorado desde el año pasado. Los *pigmeos* son acusados tanto por las milicias Mayi Mayi/Interahamwe como por las fuerzas rebeldes RCD ruandesas de complicidad con el otro lado, como consecuencia de esto, se encuentran huyendo de un grupo al otro continuamente. Grandes grupos de desalojados y destituidos *twa* y *mbuti* llegaron a Bukavu donde ninguna agencia se está haciendo cargo específicamente de ellos.

789

A pesar de la inseguridad en la región, la ONG *twa* PIDP ha continuado con sus actividades visitando a las comunidades *pigmeas* en el campo y respaldando sus actividades productivas (agricultura y ganadería) así como también buscando ayuda humanitaria de agencias locales (frazadas, ropa, alimentos, utensilios de cocina) para las familias *pigmeas* desplazadas. Algunas comunidades han tenido éxito cosechando cultivos y criando cerdos, cerdos de guinea y pollos, pero muchas han visto su producción saqueada por las milicias y los soldados de la RCD.

La PIDP también ha promovido la formación de comités de base formados por representantes elegidos por las propias comunidades twa, y trabajando con los trabajadores de campo del PIDP. El comité ampliado del PIDP está formado por representantes elegidos de los diferentes territorios que son responsables de supervisar las actividades del PIDP en su zona. Sus principales actividades son el promover la alfabetización y la asistencia a las escuelas, recoger información de la situación local y monitorear los proyectos que se están llevando a cabo en su zona. El PIDP reclutó dos mujeres extra en su personal para respaldar su trabajo con mujeres en desarrollo, salud e higiene.

La horrenda situación de los *twa* expulsados de sus tierras ancestrales en el Parque Nacional de Kahuzi-Biega, en Kivu, ha sido documentada en un informe que será publicado en breve por el IWGIA y el Forest Peoples Programme.[2] El informe explora este caso particular en el contexto de los derechos indígenas en África. Discute diversos mecanismos legales disponibles para la restitución de los derechos de los *twa* y presiona por la participación de los *twa* en la toma de decisiones y manejo de los parques, alineados con las actuales políticas de conservación

Citas

1 Jerome Lewis "The Batwa Pygmies of the Great Lakes Region: the Problem of Discrimination".

2 Albert Kwokwo Barume with Dorothy Jackson " Heading towards Extinction? Indigenous Rights in Africa : The Case of the Twa of the Kahuzi-Biega National Park, Democratic Republic of Congo".

BOTSWANA

La controversia sobre la Reserva de la Fauna del Kalahari Central

La controversia sobre la Reserva de la Fauna del Kalahari Central necesita continuos esfuerzos unificados para lograr el reconocimiento de los derechos

de sus pobladores. El Equipo Negociador de CKGF, el organismo representante de los residentes de la Reserva de la Fauna del Kalahari Central, apoyados por el Primeros Pueblos del Kalahari (FPK) y otras ONGs están tratando continuamente de mantener un diálogo y negociaciones con el Gobierno de Botswana.

La controversia de la CKGR que ha durado más de una década tiene una significación considerablemente simbólica para la población *san* en toda la región de África del Sur. La Reserva de la Fauna del Kalahari Central es, con sus 52.000 kilómetros cuadrados, el último gran ámbito donde las comunidades san están provistas con medios para ejercer su cultura tradicional. Cuando la reserva de la fauna fue establecida en 1961, George Silberbauer, nombrado como oficial a cargo del relevamiento oficial de los Bosquimanos, recomendó que el área "fuera declarada una reserva de la fauna y que los bosquimanos deberían continuar cazando libremente dentro de la misma". Sin embargo, las propuestas de Silberbauer y otros para formalizar los derechos "bosquimanos" sobre la CKGF y establecer programas de desarrollo para el área fueron archivados durante la siguiente transición a la independencia de Botswana. Desde mediados de los años 80, el gobierno de Botswana ha intentado expulsar a la población de la CKGR como los objetivos de desarrollo y conservación de la naturaleza eran considerados incompatibles. En 1997, la mayor parte de la población fue reasentada en dos lugares, New Xade y Kaudwana fuera de la reserva y los funcionarios del gobierno continuaron tratando que el resto de la población se trasladara.

A comienzos de 1999, el Departamento de la Fauna y Parque Nacionales (DWNP) lanzó un proyecto para un nuevo plan de manejo para la reserva, dando un ámbito para la coexistencia sustentable de los seres humanos y la fauna dentro de la reserva de la fauna. Aunque todavía no se han realizado consultas con las comunidades, el plan de manejo financiado por la Unión Europea provee que las comunidades restantes dentro de la reserva puedan continuar su estilo tradicional de vida y participar en el ecoturismo. FPK tiene en marcha un diálogo constructivo con DWNP y agradeció la iniciativa de las consultas comunitarias presentadas al consejo del distrito Ghanzi en julio de 1999. Inicialmente FPK fue invitado a asistir a las consultas en el terreno. Sin embargo, el proceso de consulta ha cesado en agosto hasta que las elecciones generales sean finalizadas en octubre de 1999, aparentemente debido a información de los medios de difusión sobre el retorno a la reserva de personas anteriormente reasentadas.

Recientemente se volvieron a retomar consultas con las comunidades de CKGR dentro de la reserva sin la participación de FPK para representarlos. Esto ha

791

conducido a que el equipo consultor fuera rechazado por las comunidades que demandaban que FPK estuviera presente en las conversaciones con las autoridades. En reuniones recientes con las autoridades del distrito de Ghanzi, se acordó que las futuras visitas de consulta fueran realizadas en colaboración con FPK. El acuerdo es un leve reconocimiento de que FPK es reconocido como una contraparte igual por las autoridades y se ha reconocido el valor de las organizaciones cívicas en la resolución de conflictos.

Empleados del FPK carteando el uso tradicional de la tierra en CKGR (Foto: Ivan Baehr).

Como el mandato del equipo de negociaciones de CKGR fue rechazado por el Ministro de Gobierno Local, Tierras y Viviendas en la última reunión de negociaciones en octubre de 1998, los residentes de CKGR se han registrado para una petición y demanda de tierras a través de FPK. Aunque los derechos de los residentes de CKGR han sido hasta el momento negados por el gobierno, las nuevas reglamentaciones para parques nacionales y reservas de la fauna en Botswana en virtud de la previsión de abril del 2000 prevéen que las personas que pueden establecer demandas sobre derechos tradicionales de

792
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caza en CKGR pueden continuar ejerciendo esos derechos. El sistema anterior de licencias especiales de caza emitidas por DWPN para la caza de subsistencia en las Áreas de Reserva y Manejo de la Fauna cesaría con las nuevas reglamentaciones. En julio de 1999 un grupo de 13 residentes del reasentamiento de New Xade que portaban las licencias de caza especiales fueron arrestados dentro de la reserva y acusados de caza ilegal. El juicio contra los trece cazadores está establecido para el 3-5 de julio de este año.

Las nuevas reglamentaciones de Parques Nacionales y Reservas de la Fauna también prevén el uso comunitario de zonas a ser designadas para el beneficio de las comunidades que viven en áreas inmediatamente adyacentes a la reserva. FPK se ha embarcado en un proceso de documentación de modelo de uso de tierras tradicionales, parentesco y la afinidad que conecta al pueblo con las tierras de sus antecesores. Dos trabajadores de campo de FPK, residentes de CKGR, han sido capacitados en técnicas de relevamiento y entrevistas. Las comunidades en CKGR han comenzado a cartografiar sus territorios tradicionales y sistemas de uso de la tierra usando moderna tecnología satelital y de computadoras. (GPS y GIS). Se plantea que la información recogida por las comunidades será de interés para el futuro manejo de recursos de la reserva y para el monitoreo ambiental. La compilación del conocimiento local contribuirá a la consciencia ambiental de las comunidades y será un aporte valioso para las comunidades en actividades conjuntas relacionadas con el turismo ambiental.

Se espera que FPK y las comunidades de la CKGR mediante estas actividades califiquen como contrapartes iguales en los esfuerzos conjuntos dirigidos a la protección de este entorno único del cual depende la vida de los residentes. El reciente debate público en Botswana muestra que el sector privado participa en la controversia de la CKGR cuando el director de la Asociación Hotelera y Turística de Botswana (HATAB) culpó al gobierno de esconder públicamente la razón para la política de reasentamiento. El director de HATAB está preocupado de que el traslado de los residentes de CKGR afectará negativamente a la industria turística de Botswana si causa un boicot internacional y requiere que el gobierno introduzca la política de manejo natural de recursos de base comunitaria en la Reserva de la Fauna del Kalahari Central. En su contribución al debate, el Director de HATAB sugiere que los residentes de la CKGR fuero reasentados debido a los diamantes. Sin embargo, De Beers, el gran consorcio diamantino que ha estado haciendo prospección por más de una década en la reserva ha declarado antes en un informe de prensa que no hay contradicciones entre sus intereses mineros y la presencia del pueblo san en la CKGR. Esto ha sido apoyado por las conclusiones de una

793

evaluación de impacto ambiental de la mina de diamantes Gope realizado por el consorcio minero a comienzos de 1999.

La reciente contribución del sector privado a la controversia sobre la Reserva de la Fauna del Kalahari Central es un indicador de que las oportunidades para el diálogo y negociaciones todavía no están exhaustas. Estos acontecimientos también muestran la significación de las organizaciones cívicas y las estructuras del Primeros Pueblos del Kalahari y el equipo de negociaciones de la CKGR como contraparte en un modelo democrático para la resolución de conflictos. No obstante, los residentes de la Reserva de la Fauna del Kalahari Central han dado pasos decisivos para prepaparse para un litigio en caso de que las negociaciones y el diálogo fracasen.

Ejecución pendiente de Tlhabologang Maauwe y Gware Brown Motswetla

El 15 de enero de 1999 a instancias de DITSHWANELO (el Centro de Derechos Humanos de Botswana), la Suprema Corte de Botswana emitió una orden interina de suspender la ejecución de dos *san* Tlhabologang Maauwe y Gware Brown Motswetla, ambos miembros del pueblo indígenas san de Botswana que estaba prefijada para el 16 de enero de 1999.

Tlhabologang Maauwe y Gware Brown Motswetla cometieron la ofensa de asesinato en febrero de 1995. El fallecido los había apresado después de que ellos habían robado y sacrificado un buey que estaba a su cuidado. Fueron declarados culpables por la Suprema Corte de Botswana en abril de 1997 y sentenciados a ser ahorcados. Sus sentencias fueron detenidas por la Corte de Apelaciones en julio de 1997. En noviembre de 1998 sus apelaciones por misericordia a Su Excelencia el Presidente Festus G. Mogae fueron rechazadas.

Desde abril de 1998, DITSHWANELO ha realizado repetidos intentos para obtener información del gobierno de Botswana relativa a la ejecución de los dos hombres. Sin embargo, la respuesta fue siempre que esa información era secreta. Todas las solicitudes realizadas por DITSHWANELO para visitar a los prisioneros fueron también denegadas.

El 13 de enero de 1999, los medios de difusión de Botswana anunciaron que la apelación de clemencia al Presidente había sido negada y que su ejecución estaba programada para el sábado 16 de enero de 1999. DISTSHWANELO tomó acción inmediata y logró el viernes 15 de enero hacer una aplicación urgente a la Suprema Corte de Botswana para que detuviera las ejecuciones de los dos hombres. La Corte emitió entonces una orden interina para suspender la ejecución.

La corte dio al Estado hasta el 22 de febrero de 1999, para que demostrara la causa de por qué los dos hombres deberían ser ejecutados. En noviembre de 1999, el Juez Reynolds decidió que los dos hombres habían sido negados un juicio justo. Dejó de lado tantos las condenas como las sentencias de muerte impuestas a los dos hombres y ordenó un nuevo juicio. También dijo que el Ministro del Interior Skelemani tenía el derecho de decidir sobre la *naturaleza* de los cargos contra los dos hombres como el derecho de anular el juicio.

El Sr. Maauwe y el Sr. Motswetla introdujeron motivos adicionales a los presentados por DITSHWANELO, es decir, que "la demora en realizar la sentencia de muerte a los dos hombres condenados es una penalidad cruel y degradante" y también que "la muerte por ahorcamiento es una penalidad cruel e inhumana". La segunda posposición fue otorgada por el Juez para dar a los solicitantes más tiempo para preparar adecuadamente su caso. Los argumentos adicionales incluían un cuestionamiento de la misma constitucionalidad de la pena capital. Los abogados del Sr. Maauwe y el Sr. Motswetla cuestionaron que la pena de muerte tiene el efecto de ser aplicada en una forma arbitraria y discriminatoria en relación a los pobres y los analfabetos en contravención con la constitución de Botswana. La Constitución otorga protección para todos contra las leyes discriminatorias, ya sea en sí mismas o en su efecto. El consejo legal también cuestionó el hecho de que se les otorgó una representación legal insuficiente en su juicio y apelan para considerar su caso como injusto en contravención con la constitución de Botswana.
Debido a las dificultades para argumentar este caso y su importancia vital para las personas involucradas, DITSHWANELO fue forzado a obtener abogados que tenían la experiencia necesaria y especialización para enfrentarse efectivamente a la pena de muerte.

Situación actual
En el momento de escribir este artículo, la fecha para el juicio todavía no ha sido fijada. DITSHWANELO trata de contratar al mismo equipo legal que empleó en el caso en 1999, ya que es familiar con el enfoque de derechos humanos que DITSHWANELO ha insistido en utilizar.

El sistema legal de Botswana permite la representación *pro deo* en casos en que personas indigentes son culpadas de una ofensa que acarrea la pena de muerte. Este fue el caso de Maauwe y Motswetla *antes* de la participación de DITSHWANELO. Como parte del argumento del caso en 1999, DITWHANELO cuestionó la efectividad del sistema *pro deo* porque estaba convencido de que había fracasado con los dos hombres. En última instancia, bajo los actuales procesos judiciales, la justicia tiende a evadir a los pobres y analfa-

betos debido a su estatus económico. Sin asistencia financiera DITSWHANELO será incapaz de asegurar a los dos hombres un juicio justo. Los costos estimados de todo el caso son de una suma de 172.000 US$. Como uno de sus objetivos estratégicos, sumamente influidos por los procesos del caso Maauwe y Motswetla, DISTSHWANELO tiene como meta trabajar en pro de un sistema de ayuda legal funcional financiado por el Estado, para todos los pobres que requieren una representación legal.

NAMIBIA

Los san de Namibia

El año que analizamos ha sido muy alentador para las comunidades *san* de Namibia en varios aspectos, particularmente con respecto a la construcción de capacidad, pero ciertas comunidades san del país han sido presas de influencias nacionales y regionales sumamente desalentadoras.

Con respecto a la construcción de capacidad se iniciaron una serie de importantes actividades de educación y capacitación durante el año, entre las cuales se incluyen:

- Investigación comprehensiva de la situación educacional de los niños san en África del sur;
- La producción de un vídeo sobre los desafíos educacionales que enfrentan los niños san;
- Planificación y establecimiento de institutos preescolares san;
- Asistencia para que los estudiantes san se anoten en las escuelas primarias, secundarias y el Colegio de Enseñanza Abierta de Namibia;
- Capacitación en recolección de testimonios orales;
- Capacitación para las autoridades san tradicionales;
- Capacitación en turismo y
- Capacitación en el trabajo de administración y desarrollo para jóvenes san.

Otro importante logro ha sido el establecimiento del Fondo San Omaheke, que sirve aproximadamente a 6.000 san que residen en la región de Omaheke en el este de Namibia. Un objetivo esencial del fondo es ayudar a que los san se organicen a sí mismos a nivel local y regional, los san de Omaheke subrayaron que tal organización es crucial para su progreso.

Las comunidades san del norte de Namibia han sido severamente afectadas primeramente por medidas políticas impuestas por el gobierno de Namibia a consecuencia de un levantamiento secesionista en la región de Caprivi, y más recientemente por la decisión gubernamental de permitir que el ejército nacional de Angola opere desde territorio de Namibia en sus esfuerzos para derrotar a las fuerzas rebeldes de Unita y poner fin a la guerra civil del país. Ataques en los cuales civiles extranjeros y de Namibia han resultado heridos o muertos, y el alegado hostigamiento, intimidación e incluso tortura de civiles por parte del ejército de Namibia y el de Angola, han creado un clima de temor y condujeron a cientos de san a huir a la vecina Botswana donde se otorga asilo a los refugiados de Namibia.

Investigación sobre la situación educacional de los niño san en África del sur

La trabajadora desarrollista y una autoridad en educación, Willemien le Roux, realizó un extenso trabajo de campo durante un año sobre las realidades escolares y socioeconómicas para mejorar sus efectos sobre la actuación académica y social de los niños san. Ella también analizó las existentes políticas educacionales regionales y sus estructuras como parte de su estudio. Consultó con comunidades de casi todos los grupos de habla san, así como también con el personal escolar, funcionarios gubernamentales y representantes de ONGs comprometidas en la educación para minorías marginadas en Namibia, Botswana y Sudáfrica.

Willemien le Roux comunicó sus conclusiones en un informe titulado *Torn Apart: San children as change agents in a process of acculturation (Destrozados: los niños san como agentes de cambio en un proceso de aculturación).* El informe brinda una visión invalorable sobre las percepciones de los temas educaciones y temas vinculados que tienen los san y otros interesados, y elabora sobre los principales factores que influyen la relación de los san con la educación formal. Estos factores incluyen el poder y la dependencia, la pobreza, la lengua de instrucción, la discriminación y el abuso en las escuelas y la cultura tradicional versus la educación formal. Las recomendaciones comprehensivas de la investigadora se refieren primeramente a identificar claramente períodos críticos en la vida de los niños san (es decir, preescolaridad y los primeros años de la educación primaria, los años de la pubertad y la adolescencia avanzada), secundariamente a los antes mencionados factores que influyen la relación san con la educación formal, terceramente a las políticas sobre educación y finalmente a las estrategias regionales y la cooperación con respecto a la educación.

797

Los miembros del consejo administrador de WIMSA, que comisionaron la investigación en conjunto con el Fondo de Desarrollo Kuru con sede en Botswana, acordaron después que fueron presentadas las conclusiones en su reunión de diciembre de 1999 que el informe debería ser discutido a nivel local, regional y nacional. Por lo tanto, se planea una conferencia regional sobre educación para el 2000/2001, en la cual los representantes san y los planificadores educativos trazarán un plan de acción.

"Escúchenos"

WIMSA, UNICEF Namibia y el Equipo de Trabajo Intersectorial sobre Niños Educacionalmente Marginados ("Equipo de Trabajo") del Ministerio de Educación y Cultura Básicas acordaron a comienzos de 1999 encargar un film documental sobre los desafíos que enfrentan los niños san en la educación formal. Antes de que comenzara la filmación, se realizó una investigación sobre el tema entre alumnos san, sus padres y los ancianos de la comunidad, personal escolar y agricultores que residen en el lejano norte, nordeste y este de Namibia. Un sumario de las conclusiones, que refleja principalmente los puntos de vista san, fue compilado en un informe para WIMSA titulado *Escúchenos: los desafíos que enfrentan los niños san en la educación*. Este informe es considerado un valioso suplemento al antes mencionado estudio realizado en la región del sur de África.

Se decidió que el film se centraría en temas claves para los san, tales como la pérdida de tierras, pobreza y hambre. También se decidió que se deberían producir tres filmes: el primero titulado *La educación es importante*, para mostrarlo a las diversas comunidades san; el segundo titulado *Escúchenos*, orientado a los educadores y confeccionadores de políticas, y el tercero, una versión más corta del segundo, para mostrarlo en la televisión nacional para elevar la consciencia pública sobre las dificultades educacionales que experimentan los san. El primer film ha sido traducido a los cuatro idiomas predominantemente hablados en las áreas donde se realizó la investigación: ju/'hoan, nama, oshikwanyama y afrikaans. El Equipo de Trabajo oficialmente lanzó el segundo film en octubre de 1999. En su apertura clave, la ministra adjunta de Educación y Cultura Básicas, Clara Bohitile, se refirió a los problemas educacionales de los san en un tono de empatía, delineando simultáneamente una imagen realista de su situación dentro del contexto general de la educación escolar en Namibia. Con este film, el ministerio ha demostrado una vez más su compromiso para "ubicar el sufrimiento de los niños educacionalmente marginados en la agenda pública".

Apoyo para los san para "integrarse" al sistema educacional formal

Durante 1999 el preescolar san Epako, con sede en un poblado en las afueras del pueblo de Gobabis y la escuela comunitaria Donkerbos/Sonneblom, situada en una granja comunal administrada por aproximadamente 70 familias san, progresaron bien a pesar de los atrasos temporarios. El estudiante magisterial de la preescolar Epako recibió un certificado de grado A en Desarrollo de la Niñez después de completar la serie de dos años de ocho cursos de capacitación bajo el Programa Preescolar Bokamoso administrado por el Fondo de Desarrollo Kuru ("Kuru") en Botswana. Otro taller de capacitación fue organizado para los san de la región de Omaheke quienes ya están involucrados con la educación preescolar o quienes están interesados en administrar una en el futuro próximo. La mayoría de los participantes (todas mujeres con una excepción) eran analfabetos que solicitaron a los capacitadores que se centraran en sesiones prácticas y brindaran bases de información teórica mediante elementos visuales culturalmente apropiados. Se han realizado, y se continuarán haciendo, visitas regulares de seguimiento para apoyar a los estudiantes capacitados preescolares por parte del coordinador del curso.

El Proyecto de Escuelas Aldeanas Nyae Nyae (VSP) continuó ofreciendo educación en lengua materna en ju/'hoan para alumnos de los grados 1-3. Con referencia al VSP, la investigadora Willemien le Roux escribe lo siguiente en su antes mencionado informe de 1999 titulado *Torn Apart: San children as change agents in a process of acculturation*:

El Instituto para el Desarrollo Educacional de Namibia (NIED) provee un programa a la distancia de actualización educativa para maestros ... Para poder calificar para este programa, los 12 maestros VSP fueron enrolados en un programa especial de actualización hasta el grado 10, con una exención para ciertas materias no relevantes para su entorno. Los maestros aprobaron las calificaciones para el grado 10 condicionalmente, siendo solamente otorgadas si aprueban el Certificado de Habilidad Pedagógica, después del cual serán aceptados como maestros del gobierno plenamente calificados.

El Colegio de Namibia para la Enseñanza Abierta (NAMCOL) brinda una oportunidad para aquellos que abandonaron la escuela para que actualicen sus calificaciones sobre educación ofreciendo cursos para aprendices en el grado 10 (el nivel mínimo obligatorio que un maestro de Namibia debería alcanzar) y grado 12. Durante el año que analizamos 43 estudiantes san de grado 10 (41 de ellos hombres) y tres estudiantes de grado 12 (dos hombres) se suscribieron a NAMCOL. Los resultados de los exámenes fueron desalentadores. Se hizo aparente que una razón de esto fue que los materiales de

799

estudio fueron entregados tarde, mientras que otra razón fue que los estudiantes carecían de autodisciplina y compromiso para integrarse a una programa de estudio diario, lo cual en educación a la distancia es esencial.

Capacitación

La oferta conjunta de WIMSA/Kuru para capacitar a interesados san de Botswana y Namibia en registrar los testimonios orales históricos de su pueblo fue aceptada entusiastamente por una serie de jóvenes san de las comunidades *hai//om*, *¡xöo*, *kxoe* y *naro*. Un total de 14 personas, (7 de ellos mujeres) recibieron capacitación en motivar a los miembros comunitarios, técnicas de entrevistas, transcripción de entrevistas y visualización de árboles y líneas familiares. La mayoría de estas personas capacitadas han ya realizado una o dos entrevistas en profundidad y han presentado transcripciones escritas a mano –en un promedio de 11 páginas A4 de longitud- ya sea en inglés o en afrikaans.

Las series de cuatro seminarios sobre derechos territoriales y educación legal básica realizados bajo el título de *Tierra y Ley* continuó en 1999 como un proyecto conjunto de WIMSA y la rama de los Primeros Pueblos de Todo el Mundo del Instituto de Desarrollo de las Primeras Naciones con sede en los EE.UU. Los aproximadamente 30 líderes tradicionales san que participaron en los seminarios en base (más o menos) regular juzgaron el proyecto como un éxito porque les otorgó la oportunidad de informarse mejor sobre los derechos territoriales y los procedimientos legales en Namibia y por lo tanto aumentar sus competencias de dirección. Durante el primer seminario, los participantes establecieron un Comité de Acción San sobre Temas Territoriales, que funcionaría como un organismo de vínculo para futuros seminarios y un organismo de monitoreo con respecto al proceso de reforma de tierras de Namibia. Otro resultado positivo del proyecto fue una presentación colectivamente preparada por las autoridades tradicionales y presentada por el Comité Permanente sobre Recursos Naturales en una audiencia pública sobre la Ley Comunal de Tierras.

WIMSA y el Centro para Ciencias Sociales Aplicadas con sede en Windhoek (CASS) organizaron conjuntamente un seminario para secretarios de las ya oficialmente reconocidas Autoridades Tradicionales Ju/'hoan y ¡Kung con sede en el Distrito Oriental y Occidental Tsumkwe respectivamente. Se realizaron seminarios de seguimiento de capacitación en estas dos comunidades, centrados en administración de oficinas y teneduría de libros como relevantes para los secretarios de las autoridades tradicionales san.

800

El capacitador de turismo de WIMSA ha realizado capacitación en el terreno desde abril de 1999 para el comité del campamento de descanso del valle de Omatako administrado por la comunidad en el noreste de Namibia para los miembros de la comunidad ¡xöo que se integraron a una empresa conjunta con Intu Afrika Lodge en el sur del país y para la comunidad ¡xöo en el corredor 17 de Aminuis en el este, el cual ha dado sus primeros pasos para implementar planes para un campamento de propiedad de la comunidad. En cooperación con la Asociación de Turismo de Base Comunitaria de Namibia (NACOBTA), el capacitador en turismo de WIMSA realizó un seminario sobre guía de turismo para los san interesados del distrito de Tsumkwe Este y Oeste.

Durante 1999 el consejo de WIMSA nombró a un joven activista *hai//* como asistente del coordinador. El nominado nunca había tenido una oportunidad de obtener experiencia de trabajo en administración y desarrollo, pero siendo motivado y comprometido, después de ser introducido a las múltiples tareas de WIMSA en el trabajo de contacto, abogacía y "lobby", no tomó mucho tiempo antes de que comenzara a representar a la organización en los foros nacionales, regionales e internacionales.

Construcción de capacidad para las comunidades san

El establecimiento del Fondo San Omaheke en 1999 fue un importante logro con respecto a los esfuerzos de las comunidades san para establecer sus propias estructuras organizacionales. El organismo tiene la tarea de servir a aproximadamente 6.000 san ju/'hoan, ¡xöo y naro diseminados en torno a granjas comerciales y comunales y en las afueras de los pueblos y aldeas en la región de Omaheke en el oriente de Namibia. Los procesos de trazado de una constitución para el fondo y de elección de una junta de administradores están finalizados y la junta está actualmente ocupada en hacer conscientes al público y a las ONGs pertinentes y a los gobiernos de los departamentos sobre el papel del fondo para los derechos san en el Omaheke.

Los kxoe de Caprivi Occidental

La tendencia de los san del problematizado norte de Namibia a huir a la vecina Botswana continúa escalando. La huida comenzó en noviembre de 1998 cuando comenzaron a surgir informes de un movimiento secesionista en Caprivi, y escaló después de que la Fuerza Especial de Campo de Namibia y la policía arrasaron las aldeas kxoe en Caprivi occidental en busca de campos militares de secesionistas y de armas. Muchos más san huyeron en agosto de 1999 cuando el gobierno de Namibia declaró un estado de emergencia en

801

parte de Caprivi a continuación de un ataque secesionista en el área, y aun más huyeron más tarde en el año cuando las luchas entre las fuerzas guerreras angoleñas se intensificaron a lo largo de la frontera. El asentamiento kxoe Omega III está ahora desierto, muchas escuelas del área no están operando porque los maestros y los alumnos temen por su seguridad, los campos no han sido cultivados y los proyectos de desarrollo han sido suspendidos.

Conclusiones

A pesar del desalentador desarrollo en el norte de Namibia, se han dado grandes pasos en torno a los temas san. Organizaciones como Desarrollo Rural Integrado y Conservación de la Naturaleza (IRDNC), la Fundación de Desarrollo Nyae Nyae (NNDFN), la Conservación Nyae Nyae (NNC), la Fundación Ombili, el Fondo San Omaheke (OST) y WIMSA han cooperado para asistir a los san a que adquieran educación y capacitación para obtener acceso a la tierra y control sobre los recursos naturales en esas tierras, para abogar y cabildear por sus derechos y para hacer que el público en general sea consciente de sus problemas y aspiraciones. En las palabras del Presidente de WIMSA Kxao Moeses =Oma (junta directiva, diciembre de 1999):

> *"WIMSA ha establecido una buena comunicación transfonteriza regional e internacionalmente. El reconocimiento que WIMSA ha obtenido a todos los niveles nos ha dado más coraje y fuerza para continuar aumentando nuestra cooperación con nuestros interesados".*

SUDÁFRICA

1999 fue testigo de la consolidación de una serie de estructuras que representan a los pueblos indígenas de Sudáfrica, así como también un progreso en el frente político. Algunos grupos indígenas pudieron comenzar a retornar a sus tierras ancestrales y revivir su cultura y lenguas a continuación de exitosas demandas de tierra.

En marzo de 1999, el gobierno sudafricano hizo un arreglo histórico de restitución de tierras con los *¡khomani san* del sur del Kalahari. Luego, el Presidente Adjunto, Thabo Mbeki, voló a la remota región desértica para entregar 40.000 hectáreas de buenas tierras a los san quienes habían sido despojados por los agricultores blancos y por la creación de un Parque Nacional en los años 30. En su discurso, Mbeki afirmó: "Lo que estamos haciendo en el Cabo Septentrional es un ejemplo para muchos pueblos de todo el mun-

802

do. Estamos cumpliendo con nuestro pacto con las Naciones Unicas durante el decenio de los Pueblos Indígenas".

Según el Comité Coordinador de Pueblos Indígenas de África (IPACC), Sudáfrica podría jugar un importante papel en la promoción del Proyecto de Declaración sobre los Derechos de los Pueblos Indígenas. El previo Presidente Nelson Mandela y el gobierno de Sudáfrica están considerados internacionalmente como detentadores de un peso moral en lo que se refiere a los temas de derechos humanos. Los estados africanos y asiáticos han permanecido aparte o desinformados sobre el Decenio de la ONU. Si Sudáfrica tomara una fuerte posición en favor de la Declaración y movilizara sus conexiones bilaterales podría contribuir a crear un importante cambio en las dinámicas Norte-Sur en Ginebra.

Sudáfrica está pasando por un período de cambios rápidos y reformulación de política. Thabo Mbeki ha reemplazado a Nelson Mandela como presidente de Sudáfrica. Con un adecuado cabildeo, es probable que el apruebe políticas domésticas y exteriores que encaren la restauración de los derechos humanos y civiles de los pueblos indígenas. Bajo el sistema racialmente basado del apartheid del viejo régimen, todos los pueblos aborígenes/indígenas estaban sometidos a una gran presión para asimilarse a otra lengua y grupos étnicos. El movimiento de liberación no trató con este aspecto de la opresión durante la lucha. No obstante, ahora está en una dispensa democrática, los activistas indígenas han podido presentar sus dificultades a la atención del gobierno. El gobierno de Mbeki dice que sus políticas, tanto internas como externas, serán guiadas por los principios de nuestra constitución que garantiza tanto la dignidad como la protección contra la discriminación.

Fueron creadas dos estructuras formales para representar las voces de los pueblos indígenas: el *Foro Nacional Khoe-San* y el *Organismo Lingüístico Khoe San*. Con respecto al primero, el Departamento de Desarrollo Constitucional (DCD) trabajó con activistas indígenas para crear una estructura interina electa para realizar negociaciones e investigación con el gobierno. El *Foro Nacional Khoe-San* fue fundado en marzo de 1999. Su Presidente es Joseph Little del Consejo de Desarrollo Cultural del Patrimonio del Cabo (CCHDC), y su Presidente Adjunto es Cecil LeFleur, quien es un miembro ejecutivo de la Conferencia Nacional Griqua y el presidente adjunto del Comité Coordinador de los Pueblos Indígenas de África (IPACC). El Foro Khoe-San está compuesto de los siguientes cinco grupos de interés que demandan estatus indígena:

803

- Las comunidades san
- Las comunidades *nama*
- Las organizaciones *griqua* y los agrupamientos *korana*
- CCHDC y
- El Consejo Representativo Khoisan (KRC).

Los funcionarios departamentales trabajan con los representantes electos de cada grupo para ayudar a conducir una investigación básica de la identidad, historia y liderazgo tradicional de cada comunidad demandante. Esta investigación contribuirá a un segundo proceso donde el Foro Nacional Khoe-San y el gobierno discutirán modelos de representación para pueblos indígenas.

La segunda estructura oficial creada es el Organismo Lingüístico Khoe y San. Esta es una estructura asesora, creada por la Junta de Lenguas Pan Sudafricanas (PanSALB)- una estructura constitucional estatutaria que se encargará de monitorear los derechos a la lengua y la implementación de política. La formación del Organismo Lingüístico Khoe y San es un importante avance para los pueblos indígenas ya que es la primera vez que tienen una voz directa para tratar de detener el proceso de la muerte de la lengua. El Instituto San Sudafricano (SASI) ha provisto capacitación y apoyo a la nueva estructura que representa a comunidades tradicionales en áreas rurales remotas que todavía hablan sus lenguas originales y poseen mucho conocimiento tradicional.

En adición a las iniciativas gubernamentales, el Presidente de la Comisión Sudafricana de Derechos Humanos (HRC), Dr. Barney Pityana, ha tomando un papel activo en la promoción de la formulación de política en torno a los derechos de los pueblos indígenas en Sudáfrica. El HRC celebró una serie de talleres sobre la cuestión indígena y debe publicar un informe que proveerá directivas al gobierno de Mbeki. Algunos elementos del informe incluyen la mejora de las posibilidades de los movimientos transfronterizos de los pueblos indígenas para asegurar su supervivencia cultural y su libertad religiosa.

El proyecto de la Oficina Internacional del Trabajo para los Derechos de los Pueblos Indígenas y Tribales siguió jugando un importante rol catalizador con el Departamento de Desarrollo Constitucional. La OIT co-patrocinó las dos conferencias nacionales para reunir a activistas indígenas y funcionarios gubernamentales. Henriette Rasmussen asistió a las reuniones del Foro Nacional Khoe-San y siguió los acontecimientos. La OIT comisionó a SASI e IPACC para elaborar un informe investigativo sobre las necesidades de los

más vulnerables pueblos indígenas de Sudáfrica. Este fue publicado como *"Pueblos indígenas de Sudáfrica: tendencias actuales"* en octubre de 1999.

La oficina del Alto Comisionado Canadiense en Sudáfrica ha seguido siendo positiva en cuanto a la provisión de asistencia técnica al gobierno sudafricano. Los dos gobiernos están actualmente discutiendo un programa de intercambio de funcionarios públicos para estudiar temas de derechos indígenas.

La reestructuración del Departamento de Desarrollo Constitucional, que va a ser desmantelada y sus funciones divididas entre el Departamento de Justicia y el Departamento de Asuntos Provinciales y Locales, retardará el progreso del desarrollo político. El Departamento de Relaciones Exteriores (DFA) ha expresado sumo interés en comprometerse con el UNWGIP sobre el tema de los derechos de los pueblos indígenas e IPACC ha hecho trabajo de "lobby" en el DFA para plantear temas de abusos de derechos humanos y civiles en sus relaciones bilaterales dentro de África.

Desgraciadamente, el DFA sólo puede generar política basada en política interna, lo cual todavía está lejos de ser consolidado. Se hará necesaria una acción directa de Mbeki para deshacer el nudo que ha sido creado. A pesar de los problemas de comunicación entre los departamentos gubernamentales, el gobierno sudafricano entregó su primer informe sobre el progreso de la sesión del UNWGIP en julio de 1999.

La significación de Sudáfrica en el Decenio de la ONU fue demostrada ulteriormente con la formación de la Asociación Mancomunitaria de Pueblos Indígenas (CAIIP) en julio de 1999. Activistas australianos, canadienses, asiáticos y africanos se reunieron en Londres y Ginebra para crear un grupo oficial de interés dentro de la Mancomunidad. Se eligió un comité de seis miembros y el activista sudafricano griqua, Cecil LeFleur fue elegido como Presidente y Lucy Mulenkei, una activista *maasai* de género de Kenia, también trabaja en el comité. CAIP participó en la Reunión de Jefes de Estado de la Mancomunidad (CHOGM) en Durban, Sudáfrica, en noviembre de 1999. La disposición del gobierno de Sudáfrica y de las organizaciones no-gubernamentales para dar la bienvenida a la presencia de CAIP aumenta la presión moral sobre el gobierno de Australia para otorgar espacio para los temas indígenas en la próxima reunión del CHOGM en Australia en el 2001.

En el terreno

Las tres comunidades san más importantes de Sudáfrica comenzaron a tratar con las realidades de obtener arreglos de tierra. Los *¡xû* y *khwe* comenzaron el proceso de establecer proyectos de vivienda y generadores de ingresos en

805

el nuevo asentamiento de Platfontein. Tuvieron que convencer al gobierno provincial que tenían derecho a vivir en dos áreas separadas para proteger y promover sus identidades culturales y lingüísticas. Los ¡khomani san del sur del Kalahari comenzaron el proceso de reasentamiento en Witdraai. Las negociaciones detalladas sobre la transferencia de tierras de los granjeros procedieron sin problemas. Los ¡khomani san todavía deben negociar los detalles de sus derechos dentro del Parque Nacional Kalahari Gemsbok.

El Instituto San Sudafricano está trabajando con los ¡khomani san ancianos para cartografiar su ocupación tradicional y uso de la tierra, incluyendo la historia de desposesión y la diáspora. Mediante investigaciones, la cantidad de ancianos identificados parlantes de la antigua lengua *n/u* aumentó de diez a dieciocho. Varios ancianos de habla n/u retornaron a sus tierras ancestrales después del acuerdo de tierras. El trazado del panorama cultural dentro del Parque Nacional Kalahari Gemsbok está siendo usado para ayudar a definir los tipos de derechos a ser negociados. El trazado y el proyecto histórico ya ha demostrado que los san vivían en el Parque antes de su proclamación, una demanda originalmente negada por la Dirección del Parque.

El Centro de Recursos legales de Ciudad del Cabo está asistiendo al pueblo nama del Richtersveld a realizar una demanda de título aborigen de tierras por tierras tomadas por las compañías mineras y los agricultores. El pueblo nama de Riemvasmaak en el río Orange (¡Garib) sigue en una tensa situación con el Parque Nacional de Augrabies Falls que está ubicado en su tierra ancestral e incluye cementerios a los cuales la comunidad no puede acceder. Los grupos griqua en el Cabo Occidental están involucrados en el manejo y la interpretación cultural de una nueva área de conservación cerca de Vanrhynsdorp en el Knersvlakte. No ha habido ningún progreso sobre el tema de corregir nombres en el Norte del Cabo, aunque el Grupo Experto de la ONU sobre Nombres Geográficos ha hecho trabajo de "lobby" y el Departamento de Artes, Cultura, Ciencia y Tecnología fue informado de la injusticia.

En general, el progreso en Sudáfrica ha sido notable en un corto espacio de tiempo. Internamente, los activistas san y khoe deben asegurar que todas las correctas iniciativas políticas se transformen en realidad en el terreno. La pobreza y la amenaza a la supervivencia cultural siguen siendo abrumadoras para las comunidades más tradicionales. El desafío de los activistas indígenas globalmente es movilizar a Sudáfrica para que juegue un papel más fuerte en la ONU y en sus relaciones bilaterales.

806

PARTE II

DERECHOS INDÍGENAS

807

LA DECLARACIÓN PRELIMINAR SOBRE LOS DERECHOS DE LOS PUEBLOS INDÍGENAS CONTINÚA EN SU PROBLEMÁTICO CAMINO A TRAVÉS DE LAS NACIONES UNIDAS

Por Sarah Pritchard

Introducción

El 3 de marzo de 1995, la Comisión sobre Derechos Humanos (CDH) decidió crear un grupo de trabajo abierto inter sesional con el propósito de elaborar un borrador de declaración, "considerando el borrador contenido en el anexo a la resolución 1994/45 del 26 de agosto de 1994 de la Sub-Comisión sobre la Prevención de la Discriminación y la Protección de las Minorías titulado 'Declaración Preliminar de las Naciones Unidas sobre los derechos de los pueblos indígenas'. " (CHR resolución 1995/32). La quinta sesión del Grupo de Trabajo de la CHR ("CHRWG") tuvo lugar en Ginebra del 18 al 29 de octubre de 1999. Fue la primera sesión luego de la muerte en mayo de 1999 de Andrew Gray, en un viaje de su trabajo de redes en el Pacífico para IWGIA. A lo largo de la quinta sesión, se manifestó la pérdida para el proceso de la percepción e inteligente análisis de Andrew.

En *El Mundo Indígena 1998-99,* Andrew Gray proporcionó un típicamente serio relato de la historia y estructura del CHRWG (en 355 pp). El propósito de esta nota es describir el debate en la quinta sesión ("CHRWG5"), y evaluar el movimiento, si lo hubo, en lograr consenso en relación con las disposiciones de la declaración preliminar.

Participación

A la sesión asistieron 331 personas, incluyendo representantes de 52 organizaciones indígenas y no gubernamentales, y 47 gobiernos. Por primera vez desde 1996, una delegación *maorí* participó del CHRWG. El representante del Servicio Legal Maorí Wellington declaró que la delegación *maorí* se había retirado en 1996 porque no había una participación igualitaria de representantes indígenas y gubernamentales. El representante ha sido enviado como observador para informar si el derecho a completa e igualitaria participación ha sido reconocido en la práctica del grupo de trabajo.

Como consecuencia del retorno a Lima del anterior embajador peruano en las NU en Ginebra, embajador José Urrutia, el Sr. Luis-Enrique Chávez de la misión peruana fue electo Relator Presidente del CHRWG. En sus palabras de apertura, Chávez expresó un compromiso de continuar el trabajo con el

808

mismo espíritu de diálogo y transparencia, de su predecesor, y con completa participación.

Organización del Trabajo

En su quinta sesión, el CHRWG mantuvo varias reuniones plenarias formales y nueve plenarios informales. Como en sesiones previas, el informe del CHRWG5 contiene un registro del debate general y el debate que tuvo lugar en las reuniones plenarias formales (UN Doc E/CN 4/2000/84). La discusión que tuvo lugar en las reuniones plenarias informales se refleja en los someros resúmenes del Presidente contenidos en el informe. Un problema con este enfoque es que no hay un registro detallado de las intervenciones de las delegaciones, a menudo técnicas, en las reuniones informales.

En la primera reunión del CHRWG5, el Presidente proporcionó un breve relato de sus consultas, incluyendo la Reunión Preparatoria de los Pueblos Indígenas, sobre la organización del trabajo. Primero propuso el permitir un debate general sobre aspectos generales del proceso, auto-determinación, derechos de la tierra y recursos naturales; luego concentrarse en los artículos 15, 16, 17 y 18; y finalmente, hacer algún avance en los artículos 1, 2, 12, 13, 14, 44 y 45. Se propuso por parte de los gobiernos, el acordar cada día entre las 15.00 y las 16.30, dentro del plan oficial de trabajo, las consultas informales entre los gobiernos. Los observadores en general acordaron que la propuesta fue iniciada por un grupo de gobiernos compuesto por Canadá, Estados Unidos, Australia y el Reino Unido, con Canadá como principal coordinador.

Los representantes indígenas se opusieron resueltamente a la propuesta de convocar reuniones informales inter gubernamentales como parte del plan oficial de trabajo. En un intento de distender un punto muerto, el Presidente propuso que se autorizara a los representantes indígenas a observar, pero no participar, en las consultas informales inter gubernamentales. Esta propuesta fue igualmente rechazada por el consejo indígena. En nombre del consejo indígena, los co-presidentes Kenneth Deer y Marcial Arias enfatizaron que los representantes indígenas habían luchado por largo tiempo y duramente por la participación completa. Consideraron inaceptable que se quitara valioso tiempo del grupo de trabajo para reuniones informales gubernamentales. La formalización de las reuniones excluyendo la participación indígena era objetable, y desmerecería el proceso transparente y participativo en el cual los representantes indígenas habían acordado participar. En tanto que los representantes indígenas no se oponían en principio a la idea de reuniones gubernamentales informales, rechazaron su inclusión en el plan de trabajo ofi-

809

cial. Se expresó una particular preocupación acerca de que los resultados de tales reuniones no fueran parte del informe final de la sesión, a menos que se acordara en una reunión plenaria.

Luego de dos días de negociaciones, se abrió la primera reunión formal del CHRWG5. Canadá declaró que las reuniones informales gubernamentales eran valiosas para desarrollar textos precisos y discutir redacciones alternativas. En una significativa intervención que efectivamente distendió el punto muerto, Nueva Zelandia describió el total compromiso de los pueblos indígenas como vital y valioso, y para asegurar una atmósfera de confianza y progreso, acordó quitar las reuniones gubernamentales informales del plan de trabajo. En consecuencia, el grupo de trabajo adoptó un programa revisado de trabajo del cual se borraron las reuniones gubernamentales informales.

Debate General

a) Aspectos Generales

Solo unas pocas delegaciones gubernamentales participaron en el debate sobre aspectos generales de la declaración preliminar. Estos fueron Australia, Nueva Zelandia, China, Cuba y Suiza. Un número de temas tuvieron consistentemente eco en el debate a través de las contribuciones de representantes indígenas al debate en aspectos generales:

- Es un principio básico de la ley internacional que los derechos humanos deben ser aplicados uniforme y universalmente. Sin la aplicación no discriminatoria de estándares internacionales, la integridad fundamental del establecimiento de estándares de las NU sobre los derechos de los pueblos indígenas está seriamente comprometida. En consecuencia, toda discusión sobre el borrador de declaración debería tener en cuenta los principios de igualdad, no-discriminación y la prohibición de discriminación racial.
- Son relevantes para el trabajo del CHRWG los importantes desarrollos en la jurisprudencia de los cuerpos de tratados sobre derechos humanos de las NU, el Comité de Derechos Humanos y el Comité para la Eliminación de la Discriminación Racial ("CERD"). Numerosos representantes indígenas se refirieron en particular a la Recomendación General XXIII del CERD sobre los derechos de los pueblos indígenas (Quincuagésima primera sesión, 1997), que prevé en parte:

4. El Comité llama en particular a las partes estatales a:

a. reconocer y respetar la diferente cultura, historia, lenguaje y forma de vida indígena como un enriquecimiento de la identidad cultural del estado y que promueva su preservación;
b. asegurar que los miembros de los pueblos indígenas sean libres e igualitarios en dignidad y derechos y libres de cualquier discriminación, en particular la basada en el origen o identidad indígenas;
c. proporcionar a los pueblos indígenas las condiciones que permitan un desarrollo económico y social sustentable compatible con sus características culturales;
d. ***asegurar que los miembros de los pueblos indígenas tengan iguales derechos con respecto a la efectiva participación en la vida pública*** *y que ninguna decisión directamente relacionada a sus derechos e intereses sea tomada sin su consentimiento informado;*
e. asegurar que las comunidades indígenas puedan ejercitar sus derechos a practicar y revitalizar sus tradiciones culturales y costumbres y a preservar y practicar sus lenguas *(el énfasis fue agregado)*.

- La tarea del grupo de trabajo es contribuir a la evolución progresiva de los estándares internacionales en derechos humanos en cuanto se aplican a los pueblos indígenas.
- En sus respuestas al borrador de declaración, los gobiernos no deberían estar constreñidos por constituciones internas, legislación o política. Cualquier limitación de este tipo está en conflicto con el propósito del establecimiento internacional de los derechos humanos.
- El borrador de declaración contiene estándares mínimos para la supervivencia de los pueblos indígenas, y para la protección y promoción de los derechos fundamentales y libertades de los pueblos indígenas.

En este resumen del debate sobre aspectos generales, el Presidente expresó su creencia que las posiciones se estaban acercando. Se refirió al acuerdo de que la declaración debería basarse en el consenso de todos los participantes, y en los principios de igualdad y no-discriminación. Todavía había varios asuntos conflictivos entre los gobiernos, tal como la cuestión de la definición y el uso de la expresión "pueblos indígenas".

811

b) Auto-determinación

En sus intervenciones sobre auto-determinación, los representantes indígenas reafirmaron el derecho a la auto-determinación, contenido en el artículo 3, como el principio fundamental subyacente en el borrador de declaración.

En sus intervenciones emergieron los siguientes temas:

- Sin acuerdo sobre el artículo 3, no será posible llegar al consenso sobre las otras disposiciones de la declaración preliminar.
- El derecho de todos los pueblos a la autodeterminación es una norma de derecho internacional, reconocida por la Carta de las Naciones Unidas, artículo común 1 del Acuerdo Internacional sobre Derechos Civiles y Políticos ("AIDCP") y el Acuerdo Internacional sobre Derechos Sociales, Económicos y Culturales ("AIDSEC") y la Declaración de Viena de 1993 y el Programa de Acción adoptada por la Conferencia Mundial sobre Derechos Humanos. En consecuencia, el respeto por los principios de universalidad, igualdad y no discriminación requiere el reconocimiento del derecho de los pueblos indígenas a la auto determinación.
- El ejercicio por parte de los pueblos indígenas de su derecho a la auto determinación proporciona el medio de arreglo pacífico de disputas y fortalecimiento de la unidad nacional.
- De particular relevancia para el enfoque de la declaración preliminar sobre la auto determinación son los recientes desarrollos en jurisprudencia del Comité sobre Derechos Humanos. Las observaciones finales del Comité con relación al cuarto informe periódico de Canadá de conformidad con AIDCP (UN Doc CCPR/C/79/Add 105), adoptada el 7 de abril de 1999, prevé en parte:

7. El Comité, al tomar nota del concepto de auto determinación, tal como es aplicado por Canadá con los pueblos aborígenes, lamenta que no se haya dado ninguna explicación por parte de la delegación con respecto a los elementos que conforman ese concepto, y urge a la parte estatal que informe adecuadamente sobre la implementación del artículo 1 del Acuerdo en su próximo informe periódico.

8. El Comité hace notar que, como reconoció la parte estatal, la situación de los pueblos aborígenes sigue siendo "el asunto sobre derechos humanos que ejerce más presión de los que enfrentan los canadienses". Con relación a esto, el Comité está particularmente preocupado de que la parte estatal no haya todavía implementado las reco-

812

mendaciones de la Real Comisión sobre Pueblos Aborígenes (RCAP). Con referencia a la conclusión por RCAP de que sin una mayor parte de las tierras y recursos, las instituciones de auto gobierno aborigen fallarán, el Comité enfatiza que el derecho a la auto determinación exige, inter alia, que todos los pueblos deben ser capaces de disponer libremente de su riqueza natural y recursos y que ellos no deben ser privados de sus propios medios de subsistencia. (art. 1, par. 2). El Comité recomienda que se tomen acciones decisivas y urgentes hacia la completa implementación de las recomendaciones del RCAP sobre asignación de tierras y recursos. El Comité también recomienda que se abandone la práctica de extinguir los derechos aborígenes inherentes, como incompatible con el artículo 1 del Acuerdo.

- En forma similar, en relación con su próximo examen del cuarto informe periódico sobre Noruega, el Comité de Derechos Humanos solicitó información sobre la posición de Noruega con respecto al derecho del pueblo Sámi (Lapón) a la autodeterminación (UN Doc CCPR/C/67/L/NOR). Referente a esos desarrollos, el Consejo Saami dijo que las observaciones y preguntas del Comité confirmaban que el artículo 1 del AIDCP se aplica a los pueblos indígenas, y que "*una interpretación de los derechos de los pueblos indígenas a la autodeterminación que excluye nuestros derechos a la tierra y los recursos, es incompatible con la ley internacional existente.*"

- Numerosos representantes indígenas declararon que el derecho de los pueblos indígenas a la autodeterminación no plantea ninguna amenaza a la integridad y soberánía territorial de los estados. Por ejemplo, el representante del Consejo Nacional Metis declaró que la ley internacional protege la integridad territorial de los estados que adhieren a las leyes internacionales y de derechos humanos. El representante de la Federación de Pueblos Lumad Mindanaw declaró que la auto determinación para su pueblo significaba auto gobierno de su territorio dentro de la soberanía de la nación-estado.

- Varios representantes indígenas describieron el derecho a la autodeterminación como un concepto en evolución, no limitado al contexto de descolonización. En una intervención de amplio espectro y académica, el Consejo Saámi describió la auto determinación como "*un proceso en marcha de elección para la obtención de la seguridad humana y la satis-*

813

facción de las necesidades humanas, con una amplia gama de posibles resultados adecuados a situaciones específicas."

Una clara mayoría de gobiernos apoyaron el reconocimiento de la declaración preliminar del derecho de los pueblos indígenas a la auto determinación, ya sea como está actualmente formulada o sujeta a mayor garantía explícita de integridad territorial. *Suiza* apoyó la inclusión del artículo 3 como un derecho esencial de los pueblos indígenas, y análogo al principio de subsidiario implementado en Suiza en el cual la autonomía local coexiste con un sistema federal. *Canadá* volvió a declarar su posición de que el punto de vista tradicional de auto determinación como limitado al contexto colonial equiparado con un derecho de estado, ha evolucionado. Canadá acepta el derecho de autodeterminación para los pueblos indígenas que respeta su integridad política, constitucional y territorial de estados democráticos. *Finlandia* apoyó totalmente la aceptación del término auto determinación en el borrador de declaración, siempre que el artículo 31, que trata del auto gobierno o autonomía en asuntos internos y locales, sea mantenido en la declaración.

Nueva Zelandia acepta la inclusión del derecho a la auto determinación en el borrador de la declaración, sujeto a que sea consistente con la comprensión interna de las relaciones entre los Maori y los Crown, y que con respecto a la integridad territorial de los estados democráticos y sus marcos constitucionales, donde aquellos cumplen con los actuales estándares de derechos humanos. *Noruega* apoyó la aplicación del derecho a la autodeterminación para todos los pueblos según la ley internacional, incluyendo a los pueblos indígenas. Noruega entiende el derecho a la autodeterminación en el artículo 3 como un derecho a ser ejercitado dentro de estados existentes, independientes y democráticos. Incluye el derecho de los pueblos indígenas a participar en todos los niveles de toma de decisiones en asuntos legislativos y administrativos y en el mantenimiento y desarrollo de sus sistemas políticos y económicos. *Guatemala* describió el derecho a la autodeterminación como un componente clave de la declaración preliminar, y reafirmó el apoyo de Guatemala al derecho de autodeterminación dentro del marco de unidad nacional e integridad territorial.

En una declaración más flexible que las realizadas en las sesiones previas, *Brasil* apuntó que el concepto de auto determinación está evolucionando y adaptándose a las nuevas circunstancias. Para Brasil, el concepto puede ser traducido como el derecho de los pueblos indígenas a participar completa-

814

mente en decisiones que los afectan. *Ecuador* declaró que el concepto de autodeterminación contenido en el borrador no era equivalente al principio de autodeterminación internacional y no implicaba el desmembramiento territorial de los estados. Ecuador apuntó que las declaraciones de los pueblos indígenas han confirmado esa comprensión. La autodeterminación es el medio de preservar las culturas y las comunidades indígenas. *La Federación Rusa* no tuvo dificultades en aceptar el derecho a la autodeterminación, a pesar de que el ejercicio del derecho debe ser sujeto a la integridad territorial de los estados. *Pakistán* apoyó completamente el artículo 3 y se opuso a cualquier dilución o cambio del concepto. *Venezuela* declaró que una referencia a la autodeterminación estaría en línea con el principio de soberanía e integridad del estado, y convocó a los participantes a continuar cooperando para encontrar un texto aceptable.

Argentina enfatizó la necesidad de enmiendas textuales para asegurar que nada en la declaración pueda ser utilizado para desmembrar total o en parte la integridad territorial o unidad política de un estado. *México* entendió el derecho a la autodeterminación dentro del marco enunciado en el artículo 1 (3) de la Convención de la OIT No.169. En México, la autodeterminación es interpretada como requiriendo respeto por integridad territorial y unidad nacional. *Francia* declaró que la noción de autodeterminación continúa alzando serias dificultades para un número de delegaciones, en particular debido a sus vínculos con cuestiones de descolonización e integridad territorial. El concepto ha sido aplicado en Nueva Caledonia y fue aplicado en la Polinesia francesa. En el presente, tienen lugar deliberaciones al más alto nivel en la República Francesa.

Los Estados Unidos consideraron el continuado diálogo sobre el artículo 3 y su propuesta de reconocimiento del derecho a la autodeterminación para los pueblos indígenas como uno de los aspectos que suponen el mayor reto en el borrador de declaración. La política interna de los Estados Unidos con relación a la autodeterminación es la promoción del autogobierno tribal y autonomía sobre una amplia gama de asuntos. Sin embargo, en tanto que Estados Unidos utiliza el término "auto determinación" en un contexto interno, la amplitud y definición del derecho a la autodeterminación en el contexto internacional necesita ser clarificado. Los Estados Unidos son conscientes del punto de vista de algunos gobiernos y académicos de que el derecho a la autodeterminación incluye tanto aspectos externos como internos, y que el último se aplica a los grupos dentro de los estados existentes. Significativa-

815

mente, los Estados Unidos están "*considerando los conceptos evolutivos de autodeterminación*". Más tarde, durante la sesión, los representantes de Estados Unidos confirmaron que se había comenzado una revisión *inter agencias* de la posición de los Estados unidos sobre auto determinación (énfasis agregado). En la menos comprometida de todas las intervenciones gubernamentales *Australia* reafirmó la imposibilidad de su delegación de aceptar la inclusión del término "autodeterminación" en el borrador de declaración porque para mucha gente esto implica el establecimiento de naciones y leyes separadas.

En su resumen del debate sobre el derecho a la autodeterminación, el Presidente apuntó que las posiciones de los participantes se habían acercado, y que había un acuerdo de que el derecho a la auto determinación es la piedra angular de la declaración preliminar. El Presidente reconoció que el principio de autodeterminación está evolucionando, y que aunque algunos gobiernos lo han vinculado al contexto colonial, podría y debería ser adaptado en las actuales circunstancias. En particular, el derecho a la autodeterminación es ejercido tanto a niveles internos como externos. El Presidente propuso que el futuro debate sobre autodeterminación se basara en tres premisas:

a. reconocimiento de que las preocupaciones expresadas por algunos gobiernos con relación a la secesión habían sido respondidas por algunas delegaciones indígenas que habían asegurado que ellos no deseaban la secesión;

b. la necesidad de que haya conformidad entre la formulación del derecho a la autodeterminación en la declaración preliminar y los principios que guían a las NU: esto es, los principios contenidos en la Carta; y

c. tomar como base para las futuras discusiones, los acuerdos internacionales universalmente aceptados, que contienen el derecho a la auto determinación.

En una reunión informal (!) que tuvo lugar el 25 de octubre de 1995, Malasia reiteró su apoyo al artículo 3, tal como estaba redactado.

c) Derechos sobre la Tierra y Recursos Naturales

En varias intervenciones, los representantes indígenas, repitieron los siguientes temas, sobre los artículos 25 al 30 referidos a la tierra y los recursos naturales:

- Los artículos 25 al 30 deben ser adoptados en su forma actual. En respuesta a la propuesta de Nueva Zelandia de consolidar los cinco artículos en una sola disposición, el representante del Wellington Maori Legal Service declaró que cada artículo de la declaración preliminar estaba basado en instancias de violación de los derechos humanos de los pueblos indígenas, y que cualquier sugerencia acerca de poder quitar elementos indispensables de la declaración debe ser resistida con vigor.

- Numerosas intervenciones se refirieron a la ausencia de reconocimiento interno de los derechos a la tierra de los indígenas, y citaron experiencias específicas en reclamos de tierras y procesos de reasentamiento. Hubo una discusión en particular acerca de las experiencias de los pueblos *masai*, *ongoni*, *nama* y *shor*, y los pueblos indígenas de la Guayana Francesa.

- En respuesta a las intervenciones gubernamentales referentes a los regímenes internos que rigen los derechos sobre la tierra y los procesos de reasentamiento, varios representantes indígenas declararon que no es apropiado que las leyes internas limiten y controlen el desarrollo de estándares internacionales.

- La Recomendación General XXIII del Comité CERD 1997 sobre los derechos de los pueblos indígenas, fue también considerada relevante para el enfoque sobre las cuestiones de la tierra y los recursos naturales de la declaración preliminar. El Párrafo 5 de la Recomendación General dispone:

  "5. El Comité convoca especialmente a las partes estatales a reconocer y proteger los *derechos* de los pueblos indígenas a poseer, desarrollar, controlar y usar sus tierras comunales, territorios y recursos y donde hayan sido desposeídos de las tierras y territorios que tradicionalmente poseían o habitaban por cualquier concepto o usaban, sin su consentimiento libre e informado, a tomar medidas para devolverles esas tierras y territorios. Solamente cuando esto no es posible por razones de hecho, el derecho a su restitución será sustituido por el derecho a una justa, equitativa y pronta

compensación. Tal compensación debería, en cuanto sea posible, ser en forma de tierras y territorios." *(énfasis agregado)*

- Varios representantes indígenas llamaron la atención sobre las Observaciones Finales adoptadas el 12 de diciembre de 1998 por el Comité sobre Derechos Económicos, Sociales y Culturales con relación al tercer informe periódico de Canadá de conformidad con el ICESCR (UN Doc E/C 12/1/Add 31). En esas observaciones, el Comité enfatizó la conexión entre la marginalización económica de los pueblos indígenas y su desposeción:

  "18. El Comité ve con preocupación la conexión directa entre la marginalización económica aborigen y la desposeción en marcha de los pueblos aborígenes de sus tierras, como fue reconocido por la RCAP [Real Comisión sobre Pueblos Aborígenes], *y endosa las recomendaciones de RCAP en que las políticas que violan las obligaciones de tratados aborígenes y la extinción, conversión o abandono de los derechos y títulos aborígenes no deberían continuar, por parte del Estado, por ningún concepto."*

- El representante del Centro Indígena de Recursos Legales se refirió a las observaciones finales de 1995 del Comité sobre Derechos Humanos, con relación al primer informe periódico de los Estados Unidos de conformidad con el ICCPR (UN Doc CCPR/C/79/Add 50), en el cual el Comité recomendó *"que se den pasos para asegurar que los derechos de los Nativos Americanos, previamente reconocidos, no se extingan"* (par. 302)

- Varios representantes indígenas de Australia se refirieron a las resoluciones del Comité CERD de marzo de 1999, sobre las enmiendas a la *Ley de Títulos Nativos 1993* (Cth) de Australia, que violan las obligaciones internacionales de Australia, como ejemplo de la crítica importancia de los estándares internacionales en la protección de los derechos de los pueblos indígenas.

El representante de *Australia* señaló que el espíritu de muchos de los artículos de la declaración preliminar relativos a la tierra, ya estaban implementándose en Australia. Contribuyendo al desarrollo de las partes de la declaración preliminar que tratan sobre la tierra y los recursos naturales, Australia se guiará por la ley y la práctica interna. *Nueva Zelandia* dijo que el

lenguaje de la declaración preliminar debe ser clarificado para asegurar su consistencia con el tratado sobre los procesos y políticas de asentamiento de los *waitangi*, y con la ley nacional de Nueva Zelandia. Nueva Zelandia podría apoyar un artículo más general que consolidara todos los aspectos de los derechos indígenas con relación a la tierra. *Dinamarca* puso énfasis en la importancia de tratar la cuestión de los derechos sobre la tierra y los recursos naturales de manera satisfactoria para los pueblos indígenas. Es necesario un enfoque flexible porque los pueblos indígenas a menudo tienen percepciones que difieren de las de la comunidad más amplia.

Canadá apoyó vigorosamente el principio de que los pueblos indígenas tengan el derecho a poseer, controlar, desarrollar y usar sus tierras y recursos. Sin embargo, para que tenga aplicación universal, la declaración preliminar debería tener en cuenta los diferentes arreglos sobre tierra y recursos entre los estados y los pueblos indígenas. El texto actual necesita enmiendas y clarificación, en particular con relación a los términos "tierras" y "territorios". Los criterios de restitución de la declaración preliminar también son innecesariamente limitantes. El artículo 27 debería ser ampliado para tratar los procesos que se refieren a los reclamos de tierras. *Malasia* considera que los artículos han sido redactados en un lenguaje muy amplio en vista de la complejidad de los temas, y propuso un lenguaje más preciso para poder fortalecer el texto. Los *Estados Unidos* apoyaron las metas de los artículos 25 al 30, referentes a una extensa historia de presentar reclamaciones por tierras y el reconocimiento de un impuesto fiduciario legalmente exigible. Los EU estaban preocupados por el lenguaje amplio del artículo 26, que parece darle a los pueblos indígenas el derecho de propiedad de la tierra que han "tradicionalmente ocupado o utilizado de cualquier manera". *Guatemala* declaró que al término "territorios" se le debería dar el mismo significado que le dieron los redactores del texto original. El representante se refirió en particular al informe del Relator Presidente del Grupo de Trabajo sobre Poblaciones Indígenas, Erica-Irene Daes (UN Doc E/CN 4/Sub 2/1993/26/Add 1). *Venezuela* expresó su preocupación por el uso del término "territorios" debido a sus connotaciones con la definición de estados. Venezuela prefiere el término "tierra" que es compatible con la ley nacional.

En un resumen algo optimista, el Presidente señaló que la creciente buena voluntad y flexibilidad harían posible llegar a un entendimiento entre los participantes del grupo de trabajo. Al concluir el debate, quedó claro que quedan divergencias considerables en las posiciones de los participantes. Con mu-

819

chos gobiernos, especialmente los nórdicos, que guardaron silencio sobre estas disposiciones, es demasiado pronto para hablar de áreas de consenso emergentes. Sin embargo, el debate fue dirigido con mayor especificidad y franqueza que previamente, con gobiernos expresándose, comenzando a discutir perspectivas particulares y experiencias con relación al reconocimiento de los derechos de la tierra y los recursos.

Artículos 15 al 18 - Educación, Información y Derechos Laborales: Los Enfoques de los Gobiernos

En 1998 en el CHRWG4, el entonces Presidente Urrutia recibió un documento informal estableciendo propuestas concretas de un número de delegaciones, especialmente Australia, Canadá y los Estados Unidos, con relación a los artículos 15 al 18. En ese momento, el consejo indígena expresó su grave preocupación de que los representantes indígenas no hubieran participado en la elaboración del documento no-consensual, y rechazó cualquier sugerencia de que el grupo de trabajo estuviera abocado a redactar borradores o hacer negociaciones. En respuesta, el Presidente Urrutia confirmó que el grupo de trabajo no estaba abocado a redactar borradores o hacer negociaciones.

Como se indicó más arriba, en el CHRWG5 el consejo indígena resistió con éxito los esfuerzos por "formalizar" las consultas inter-gubernamentales informales en el plan de trabajo oficial. Sin embargo, esto no impidió que los gobiernos continuaran las consultas informales sobre los artículos 15 al 18. De los procesos inter-gubernamentales surgieron cuatro documentos que sintetizan los intentos de los gobiernos para llegar a consenso sobre textos alternativos. El grupo de trabajo mantuvo 9 reuniones plenarias informales para considerar los documentos gubernamentales. El resumen del Presidente estipula:

> *La discusión franca y constructiva de los principios y sustancias de estos cuatro artículos permitió a los gobiernos el elaborar textos alternativos para cada uno de esos artículos que incluyen alguna redacción entre paréntesis que refleja asuntos excepcionales que requieren mayor consideración. Algunos representantes gubernamentales expresaron el punto de vista de que podrían estar de acuerdo con el grupo como fue originalmente escrito, ya sea en todo o en parte. Otros expresaron una preferencia por el texto actual como fue aprobado por la Sub-Comisión. Sin embargo, el punto de vista emergente de las delegaciones gubernamentales participantes fue que los textos alternativos podrían ser considerados como una base aceptable para tra-*

bajo posterior y podrían ser presentado al grupo de trabajo para adelantar la discusión en el plenario. (pár. 114)

También según el sumario del Presidente:

Los representantes gubernamentales también dijeron que estaban tratando de proseguir las discusiones sobre otros artículos en la próxima sesión del grupo de trabajo y estarían gustosos de considerar el incluir observadores indígenas en reuniones informales entre gobiernos cuando las discusiones se centran en artículos de la declaración, si esas reuniones pudieran ser parte del plan de trabajo de la próxima sesión. (pár. 117)

El Presidente concluyó que había tenido lugar un debate fructífero y que había un creciente consenso con respecto a los principios subyacentes de los artículos (pár. 118). Desde la perspectiva de los participantes indígenas, el debate sobre los artículos 15 al 18 fue cualquier cosa menos fructífero. En cuanto a que los gobiernos podrían haber achicado sus propias diferencias, el desacuerdo entre los gobiernos y los participantes indígenas se había, en todo caso, aumentado. Si bien en sesiones previas, numerosos gobiernos habían expresado una capacidad de vivir con alguno o todos los artículos 15 al 18 tal como fueron redactados, como resultado de su participación en las consultas gubernamentales informales, gobiernos que previamente lo habían apoyado se encontraron cambiando para acomodarse con las posiciones gubernamentales más inflexibles. En este proceso, el consenso se construyó alrededor de las posiciones más extremas y obstruccionistas. Los representantes indígenas observaron con desaliento como la discusión de los artículos en las sesiones plenarias se centraba no sobre el texto original de la declaración, como fue aprobada por la Sub-Comisión, sino sobre las propuestas preparadas por los gobiernos en sus consultas informales.

Este proceso representó un significativo alejamiento del diálogo abierto y los métodos de trabajo consensual que habían caracterizado las sesiones previas del grupo de trabajo. Basándose en la resolución CHR 1995/32, el procedimiento acordado había sido el considerar el texto original como una base para toda la discusión de los principios subyacentes de la declaración, así como de artículos particulares. Contrariamente al concepto de "participación completa e igualitaria", el CHRWG5 vio la institucionalización de la práctica, comenzada por el Presidente previo Urrutia y aparentemente alentada por el actual Presidente Chávez, de gobiernos revisando el texto de la declaración

821

con una visión de disminuir diferencias entre ellos. El resumen del Presidente, citado más arriba, revela una indudable intención de parte de los gobiernos para consolidar el redactar nuevamente en los futuros procesos del grupo de trabajo. El resumen presenta un ultimátum a los representantes indígenas. Si ellos desean asistir a las consultas, *como observadores*, entonces las consultas deben formar parte del plan de trabajo oficial.

Dentro del campo gubernamental, fue evidente que algunas delegaciones estaban molestas por aspectos de las reuniones gubernamentales cerradas. En las reuniones plenarias, un número de gobiernos se retractó de las posiciones reflejadas en las propuestas gubernamentales. Luego de escuchar los comentarios indígenas sobre las propuestas, estos gobiernos declararon o bien que podrían continuar con el texto original de artículos particulares, o que consideraban el texto original como superior. Tales declaraciones fueron hechas por Argentina, Brasil, Dinamarca, Ecuador, Finlandia, Guatemala, México, Nueva Zelandia, Noruega la Federación Rusa, Suiza. Los más vigorosos defensores de las propuestas fueron aquellos gobiernos que habían dirigido el ejercicio, Canadá, Australia, el Reino Unido y los Estados Unidos.

Artículos 15 al 18 - Educación, Información y Derechos Laborales: Las Respuestas de los Representantes Indígenas

Los documentos gubernamentales sobre los artículos 15 al 18 generalmente fueron puestos a disposición de los representantes indígenas poco antes de su discusión en el plenario. Esto significó que el tiempo era insuficiente para analizar adecuadamente las nuevas redacciones, para que el consejo respondiera a los cambios textuales propuestos. Surgió una dificultad particular ya que los instigadores anglófonos de las consultas inter gubernamentales no hicieron previsiones para traducir los documentos a ningún otro lenguaje. Esto colocó a muchos representantes indígenas en una desventaja considerable. A pesar de las dificultades en analizar y responder a los textos gubernamentales, los representantes indígenas fueron generalmente mordaces en sus evaluaciones de los cambios propuestos. Se repitieron tres puntos en las intervenciones indígenas:

1. La puesta entre paréntesis de los pueblos indígenas.
2. La puesta entre paréntesis del futuro/condicional.
3. La falta de justificación para muchos cambios, con cambios en algunas instancias que en realidad enturbiaban la claridad del texto existente.

822

La puesta entre paréntesis de los Pueblos Indígenas

En respuesta a la puesta entre paréntesis del término pueblo indígenas, el consejo indígena propuso un "Anexo sobre el término pueblos indígenas" para concluir el informe final. Este documento de consenso expuso la consistente posición de los representantes de los pueblos indígenas con relación al término pueblos indígenas:

> *No puede haber duda que hay pueblos con identidades históricas, políticas y culturales distintas. Estamos unidos por nuestras historias como sociedades distintas, por nuestros lenguajes, leyes, tradiciones y nuestras únicas relaciones espirituales y económicas con nuestras tierras y territorios. Los pueblos indígenas son incuestionablemente pueblos en todo los sentidos del término, legal, político, social, cultural y etnológico. Es discriminatorio, ilógico y anticientífico el identificarnos en la Declaración Preliminar de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas como nada menos que pueblos...*
>
> *Continuamos insistiendo en que las Naciones Unidas apliquen sus propios estándares universalmente e igualitariamente, que nos conceda los mismos derechos que otros pueblos del mundo, que actúe sin prejuicio y sin discriminación. No podemos estar de acuerdo, ni ahora ni en el futuro que al considerar la Declaración Preliminar de los Derechos de los Pueblos Indígenas, a ninguna calificación, explicación, definición, puesta entre corchetes, paréntesis o nota al pie del término pueblos indígenas.*

El anexo propuesto hizo notar que el término pueblos indígenas está bien establecido en la práctica legal internacional, incluyendo:

- las observaciones finales del Comité sobre la Eliminación de la Discriminación Racial y Recomendaciones Generales XXIII (51) relativas a los Pueblos Indígenas, adoptadas el 18 de agosto de 1998
- los puntos de vista y observaciones finales del Comité sobre Derechos Humanos en relación con la implementación del Acuerdo Internacional sobre Derechos Civiles y Políticos
- las observaciones de la Comisión Interamericana sobre Derechos Humanos .

823

- las resoluciones del Parlamento Europeo y el Consejo de Ministros de la Unión Europea
- la Directiva Operativa del Banco Mundial 4.20
- la política de 1997 del Banco Asiático de Desarrollo sobre pueblos indígenas

El anexo propuesto identificó numerosos ejemplos de uso de los términos pueblos indígenas y pueblos aborígenes en la práctica de los estados, incluyendo garantías constitucionales, promulgaciones legislativas, decisiones judiciales, tratados y acuerdos negociados, y política nacional y local. Los ejemplos proporcionados incluyen:

1. La ley de Título Nativo de Australia de 1993
2. la constitución de Bolivia (articulo 171, la Ley de Participación Popular de Bolivia, la Ley INRA de Bolivia, Reforma Educativa, Medio Ambiente e Hidrocarburo de Bolivia
3. la Comisión sobre Pueblos Indígenas del Consejo Nacional del Perú de 1999
4. la Ley de Constitución canadiense de 1982 (sección 35)
5. la Constitución de Colombia (artículo 246)
6. el Acuerdo sobre Identidad y Derechos de los Pueblos Indígenas de Guatemala de 1994
7. la Constitución de Malasia (articulo 151)
8. la estrategia de Dinamarca de 1994 de apoyo a los pueblos indígenas
9. la Constitución Política de la República del Ecuador (artículo 83)
10. la Constitución de México (artículo 4)
11. la Constitución de Nicaragua (artículo 5)
12. la Constitución de Paraguay (articulo 62)
13. la política de Alemania de 1996 para los pueblos indígenas de América Latina
14. la política de Holanda de 1993 sobre pueblos indígenas
15. la ley de medio ambiente de Panamá
16. la Ley de Derechos de los Pueblos Indígenas de Filipinas de 1997
17. la Guía sobre Etnicidad, Minorías Étnicas y Pueblos Indígenas del Reino Unido de 1995
18. la estrategia de España para la cooperación con los pueblos indígenas de 1997
19. la acción para los pueblos indígenas de Suiza de 1998

324

20. el Código de los Estados Unidos: 7 U.S.C. Sección 1738k(d)(1); Título 22 (9 Secciones separadas), 42 U.S.C. Sección 11701(17) y los S. Con. Res. 44, 103d Cong., 1st Sess. (1993) de los Estados Unidos

Finalmente, el anexo se refirió a los numerosos estados que habían aceptado el uso del término pueblos indígenas en la práctica del CHRWG, incluyendo Angola, Argentina, Australia, Bolivia, Brasil, Canadá, Chile, China, Colombia, Costa Rica, Cuba, Dinamarca, Ecuador, El Salvador, Estonia, Fiji, Finlandia, Guatemala, Malasia, México, Nueva Zelandia, Noruega, Pakistán, Perú, Filipinas, Rusia, España, Suecia, Suiza y Venezuela. Aparentemente sucumbiendo a la presión de los gobiernos, el Presidente rechazó que el "Anexo sobre el término pueblos indígenas" se incluyera en el informe.

La puesta entre paréntesis del futuro/condicional

En relación con la puesta en paréntesis del futuro/condicional, como en el CHRWG4 los representantes indígenas apuntaron que el "futuro" es usado en numerosas declaraciones de las NU, incluyendo la Declaración Universal de los Derechos Humanos. En el debate en curso, muchos gobiernos apoyaron el uso del "futuro", incluyendo Canadá, Finlandia, Nueva Zelandia y Suiza ("con fuerza"). Solamente el Reino Unido y Japón insistieron en que el "condicional" es más apropiado en un documento de aspiración tal como la declaración preliminar. Australia y los Estados Unidos estaban en conspicuo silencio.

Otros Cambios Propuestos

No se propone analizar en detalle los cambios propuestos al texto de los artículos 15 al 18. Estos se reproducen completamente más abajo. Se puede ver que las consultas intergubernamentales de 1999 no pudieron nuevamente lograr consenso sobre el texto. Hablando en general, ya que los gobiernos tienen dificultades para poner énfasis, las propuestas de 1999 contienen menos paréntesis y menos enmiendas que el documento informal presentado en 1998. Por ejemplo, ya no se propone insertar en el artículo 16 una referencia a "el nivel de gobierno apropiado" para reflejar el sistema federal de algunos países. Al mismo tiempo, sin embargo, es claro que los gobiernos acordaron conservar en su propuesta de 1998 la mayor parte del lenguaje considerado por los representantes indígenas en 1998 como calificando y debilitando el texto original.

Por ejemplo, con relación al *artículo 15 (educación)*, la propuesta de 1999 nuevamente insiste en la inserción en el párrafo 1 de las palabras "igual que otros miembros de la sociedad". La propuesta de 1999 nuevamente introduce

825

en el párrafo 1 referencias a "leyes y estándares de educación aplicables" y "consulta con autoridades competentes en el estado". La propuesta de 1999 en relación al párrafo 2 conserva el concepto que los niños que viven fuera de sus comunidades deberían tener "acceso" a la educación en su propia cultura y lenguaje, más que el "derecho a que se le proporcione acceso" a tal educación como en el texto original. Con relación al *artículo 16 (educación pública e información)*, la propuesta de 1999 nuevamente borra la referencia en el párrafo 1 a "derecho" de los pueblos indígenas, sustituyéndolo en cambio por "la dignidad y diversidad de los pueblos indígenas culturas, tradiciones, historias y aspiraciones deberían ser apropiadamente reflejados en la educación e información públicas". La referencia a "todas las formas de" educación e información pública se borra en forma similar.

Con relación al *artículo 17 (medios)*, la propuesta de 1999 nuevamente insiste en insertar en el párrafo 1 las palabras "en igualdad con los otros miembros de la sociedad". Nuevamente se propuso el ampliar el párrafo 2 más allá de los medios de propiedad del estado "sin perjuicio de asegurar completa libertad de expresión", reflejando por lo tanto una preocupación por la independencia y libertad de prensa. Con relación al *artículo 18 (derechos laborales)*, la propuesta de 1999 nuevamente inserta "aplicable" luego de "ley internacional del trabajo" en el párrafo 1.

En el CHRWG5 los representantes indígenas estuvieron nuevamente enfrentados al dilema de que en tanto que la mayoría de las propuestas podrían ser fácilmente refutadas como inconsistentes con los principios fundamentales subyacentes a la declaración preliminar o que debilitaban el texto existente, varias potencialmente mejoraban o reforzaban el texto existente. Por ejemplo, la propuesta de 1999 con relación al artículo 15 conserva la referencia a "individuos indígenas" propuesta en 1998, con la justificación que lenguaje de individuos amplia el derecho contenido en el artículo 15 para incluir educación post-secundaria. En forma similar, la propuesta de 1999 con relación al artículo 18 introduce una nueva referencia a la protección de los niños de las peores formas de trabajo infantil. Esto se refiere a la Convención No. 182 de la OIT sobre las Peores Formas de Trabajo Infantil, unánimemente adoptadas por la Conferencia Internacional del Trabajo en junio de 1999.

Durante todo el CHRWG5 hubo mucha discusión dentro del consejo indígena sobre cómo responder más efectivamente al ejercicio de aparente corrección del borrador por parte de pequeños grupos de gobiernos. En el CHRWG4 en 1998, Mick Dodson, como representante de la Comisión Aborígen e Isleña Estrecho de Torres , propuso criterios básicos que deberían ser cumplidos por los proponentes de cualquier cambio al texto existente. El

primero de ellos era la muy alta presunción sobre la integridad del texto actual. La segunda era la conformidad con el principio de igualdad, el principio de no-discriminación, y la absoluta prohibición de discriminación racial. Durante el CHRWG5, un número de organizaciones indígenas apoyó un documento planteado por el Wellington Maori Legal Service que trataba de elaborar basándose en los criterios propuestos previamente por Mick Dodson.

Primero, la propuesta apuntó el consistente énfasis puesto por los representantes indígenas en el uso del término pueblos indígenas en el trabajo de las NU. Segundo, la propuesta establece criterios a ser cumplidos por los proponentes de cualquier cambio al texto existente:

> *La Declaración Preliminar debe ser abordada sobre la base de una muy alta presunción de la integridad del texto existente. Para refutar esta presunción, cualquier propuesta debe satisfacer los siguientes criterios:*
>
> *1. Debe ser razonable*
> *2. Debe ser necesaria*
> *3. Debe mejorar y reforzar el texto existente.*
>
> *Además, cualquier propuesta debe ser consistente con los principios fundamentales de:*
>
> *1. Igualdad*
> *2. No-discriminación*
> *3. Prohibición de discriminación racial*

La propuesta fue firmada por representantes de el Wellington Maori Legal Service, Pacto de los Pueblos Indígenas de Asia, Consejo Lapón, Nación Mohawk en Kahnawake, Red de Pueblos Indígenas y Pueblos Tribales Asiáticos, Centro de Recursos Legales de India, Na Koa Ikaika o Ka Lahui Hawaii, Secretariado Nacional de los Servicios Legales Aborígenes e Isleños, Secretariado Nacional de Organizaciones Isleñas de Torres Strait, Comisión Isleña Aborigen de Torres Strait, Grupo de Mujeres Indígenas Aborígenes y Fundación para la Acción de Investigación para Aborígenes e Isleños. Algunas delegaciones indígenas fueron cautelosas en la aproximación como si contaran con el endoso tácito del cambio textual y poder de cambio de aquellos gobiernos más activos en tratar de desmembrar la declaración existente.

827

Anexos

Los documentos aceptados por el Presidente para ser anexados al informe final generaron una controversia considerable. Sobre la vigorosa oposición de los participantes indígenas, el Presidente aceptó como Anexo I los textos propuestos por los gobiernos y una nota explicativa sobre el uso de paréntesis para el término "pueblos indígenas". De esta manera los gobiernos pudieron realzar la legitimidad de sus propios textos enmendados como base para futura discusión en el CHRWG. La inclusión del Anexo I también formaliza efectivamente y legitima las consultas informales intergubernamentales como el foro apropiado para rehacer la declaración.

El Anexo II se titula "Propuestas por Representantes Indígenas para los Artículos 15 al 18". Esto apunta el apoyo de los representantes indígenas y algunas delegaciones gubernamentales para la actual redacción de los artículos 15, 16, 17 y 18, y reproduce el texto existente. Como se señaló más arriba, el "Anexo sobre el término pueblos indígenas" propuesto por el consejo indígena como un documento de consenso no fue aceptado por el Presidente para ser incluido en el informe final.

Resultados

Al comienzo del CHRWG5, el Presidente expresó la esperanza de que alguno o todos los artículos del 15 al 18 fueran adoptados. En este evento, los artículos 15 al 18 no fueron adoptados, y en todo caso, hubo una creciente divergencia más que un acercamiento de los enfoques. No hubo discusión de los artículos 1,2 12, 13, 14, 44 y 45.

Las cuestiones de proceso, estructura y participación se han vuelto cada vez más complejas, con representantes indígenas luchando para defender los métodos de trabajo consensuales previamente acordados con relación a todos los aspectos del trabajo del CHRWG. Furtivamente, un pequeño grupo de gobiernos ha preparado la forma de abrir el texto preparado por el WGIP para ser corregido por los gobiernos. El CHRWG5 vio retroceder rápidamente el consenso que casi se había obtenido en el CHRWG4 con relación a los artículos 15 al 18. La sesión también vio alguna tensión emergente del lado de los gobiernos con relación al ejercicio de corrección. Es claro que el uso creciente de la presión y de elementos de política suicida están penetrando, al menos en el enfoque de algunos gobiernos hacia el proceso.

En general, el CHRWG5 vio consistente defensa de la declaración preliminar por parte de Costa Rica, Dinamarca, Guatemala, Nueva Zelandia y Noruega; ausencia de los gobiernos africanos; muy poca actividad del grupo asiático; silencio por parte de Chile y Suecia; intervenciones obstruccionistas

por el Reino Unido; intransigencia por parte de Japón sobre la cuestión de los derechos colectivos; vuelcos positivos continuados de Argentina, Brasil y Francia; una separación en el grupo CANZUS (Canadá, Australia, Nueva Zelandia y los Estados Unidos), con Nueva Zelandia emergiendo como un agente constructivo, y Australia en la línea dura.

Dentro del consejo indígena, prevaleció la unanimidad. Sin embargo, hubo algunos (mudos) pedidos de nuevos enfoques al diálogo con los gobiernos. Desde la primera reunión del CHRWG, ha habido diferencias de opiniones sobre si la declaración, tal como estaba redactada, debiese al final ser defendida, o si los cambios que mejoran o refuerzan el texto pudiesen ser tolerados. Cualquiera que sea el punto de vista que prevalezca, hay reconocimiento de la necesidad de pensar seriamente sobre nuevas estrategias de compromiso. En el CHRWG5, las desigualdades en recursos disponibles para los representantes indígenas y gobiernos en su preparación y para participar en el grupo de trabajo fueron más evidentes que en cualquier otra sesión previa.

Más positivamente, el CHRWG5 vio creciente reconocimiento de la sinergia entre el trabajo de los cuerpos independientes del tratado sobre derechos humanos de las Naciones Unidas y el proceso de la declaración preliminar, con la jurisprudencia de los cuerpos del tratado proporcionando una valiosa línea de defensa contra los intentos de los gobiernos por apartarse de los estándares internacionales de derechos humanos relevantes para los pueblos indígenas. También en forma alentadora, el CHRWG5 vio creciente comprensión por los gobiernos de la importancia de mantener un diálogo sobre los asuntos fundamentales y conceptos que subyacen la declaración. De esta manera, a pesar de las ambigüedades que rodeaban las propuestas de los gobiernos con relación a los artículos 15 al 18, la sesión nuevamente vio real movimiento en las posiciones de varios gobiernos en el debate sobre autodeterminación. Finalmente, el anuncio por los Estados Unidos de una revisión inter-agencia de su enfoque de la autodeterminación alzó un rayo de esperanza de que el mayor obstáculo hacia la obtención del consenso podría posiblemente ser quitado.

Posiciones Gubernamentales 1999

La posición de los gobiernos en el CHRWG5 pueden tabularse como sigue:

Aquellos que *urgieron flexibilidad* y, al considerar las enmiendas propuestas, podían continuar con algunos o todos los artículos en discu

829

sión tal como estaban redactados: Dinamarca, Finlandia, Noruega, Nueva Zelandia, Noruega, Suiza, Costa Rica, Ecuador, Guatemala, Venezuela, Pakistán y la Federación Rusa.

Aquellos que apoyaron los principios contenidos en los artículos, pero *insistieron en las enmiendas* al texto actual. Más flexibles: Brasil, Colombia, Malasia y México. Menos flexibles: Argentina, Canadá y Francia.

Aquellos que *desafiaron los principios fundamentales* subyacentes en la declaración preliminar, en particular el concepto de autodeterminación, lenguaje de los pueblos indígenas y/o reconocimiento de derechos colectivos: Australia, Japón, el Reino Unido y los Estados Unidos.

Actividad Gubernamental 1999

La actividad de los gobiernos en el CHRWG5 puede ser evaluada como sigue:

Muy activos: Argentina, Australia, Brasil, Canadá, Costa Rica, Dinamarca, Finlandia, Francia, Guatemala, México, Nueva Zelandia, Noruega, la Federación Rusa, Suiza, Venezuela, el Reino Unido y los Estados Unidos.

En gran parte silenciosos: Bolivia, Colombia, Cuba, Ecuador, Japón, Malasia y Pakistán.

Silenciosos: Bangladesh, Bélgica, Chile, China, Estonia, Alemania, Holy See, Honduras, India, Indonesia, Iraq, Italia, Marruecos, Holanda, Nicaragua, Perú, Las Filipinas, Polonia, Arabia Saudita, Corea del Sur, España, Sudán, Suecia y Uruguay.

Previamente habían asistido al CHRWG pero no asistieron al CHRWG5: Argelia, Angola Austria, El Salvador, Egipto, Etiopía, Fiji, Irán, Kenya, Nepal, Nigeria, Panamá, Paraguay, Portugal, Sud Africa, Tailandia, Ucrania y Vietnam.

FORO PERMANENTE SOBRE ASUNTOS INDÍGENAS: PERSIGUIENDO EL ESPEJISMO

Por Suhas Chakma

El 27 de abril de 2000, la 56ª sesión de la Comisión de Derechos Humanos (CHR) decidió crear el Foro Permanente sobre Asuntos Indígenas como un cuerpo subsidiario del Consejo Económico y Social (ECOSOC). La resolución 2000/87 sobre la creación del Foro Permanente fue adoptada por votación nominal de 43 a favor sin votos en contra, con nueve abstenciones. El que la resolución sobre el Foro Permanente sobre Asuntos Indígenas haya sido adoptada justo antes del final de la 56ª Sesión del CHR, luego de un largo debate sobre el borrador de resolución (E/CN.4/200/L.68), indica la mala disposición de algunos pocos Estados miembro a crear el Foro Permanente. Cuba se abstuvo de votar sobre la totalidad de la resolución.

El Foro Permanente es el paso más significativo y concreto dado hasta ahora por las Naciones Unidas para tratar los asuntos de los pueblos indígenas. Desde la negativa a entrar en la Liga de las Naciones al establecimiento del Foro Permanente dentro del sistema de las Naciones Unidas, la jornada ha sido ardua para algunos de los pueblos más carenciados y oprimidos del mundo.

La idea del Foro Permanente para los Pueblos Indígenas surgió de la conciencia entre los representantes indígenas, miembros de la Sub-Comisión del Grupo de Trabajo sobre Pueblos Indígenas y varios Estados miembro de las NU, de que no hay un mecanismo permanente dentro del sistema de las Naciones Unidas para tratar los problemas de los pueblos indígenas. El asunto del Foro Permanente fue planteado en la Conferencia Mundial de Viena sobre Derechos Humanos en Junio de 1993. La Declaración y Programa de Acción de Viena de 1993 recomendaron el establecimiento del Foro Permanente. La Asamblea General (AG) en su resolución 50/157 identificó el establecimiento del Foro Mundial como uno de los objetivos importantes de la Década Internacional de los Pueblos Indígenas.

De acuerdo con la resolución de la Comisión sobre Derechos Humanos 1995/30 del 3 de marzo de 1995, se realizó un taller sobre el posible establecimiento del Foro Permanente en Copenhague en 1995. El taller de Copenhague solicitó al Secretario General de las Naciones Unidas que dirigiera un estudio sobre la "Revisión de mecanismos existentes, procedimientos y programas dentro de las Naciones Unidas relacionadas con los pueblos indígenas". El Secretario General en su informe (A/51/493) señaló en parti-

831

cular, la llamativa ausencia de un mecanismo para asegurar la coordinación e intercambio regular de información entre las partes interesadas - gobiernos, las Naciones Unidas y los pueblos indígenas - en una forma continua. El Secretario General declaró:

> *"...no hay ningún mecanismo para asegurar el intercambio regular de información entre las partes involucradas - gobiernos, el sistema de las Naciones Unidas y los pueblos indígenas - en forma continua. La información proporcionada por las agencias de las Naciones Unidas no indica que ya haya procedimientos adecuados para dar cabida a la participación efectiva de los pueblos indígenas en el trabajo de las Naciones Unidas".*

En 1997, de conformidad con la resolución 1997/30 de la CHR del 11 de abril de 1997, se realizó el Segundo Taller sobre el Foro Permanente en Santiago de Chile. Se discutió el informe del Secretario General. El taller sugirió que "la Comisión sobre Derechos Humanos en su quincuagésima cuarta sesión debería considerar cómo avanzar en el proceso del establecimiento de un foro permanente para los pueblos indígenas dentro del sistema de las Naciones Unidas, entre otros, a través de la redacción de propuestas concretas a este efecto y teniendo en cuenta la posibilidad de presentar el asunto a ECOSOC para actuar."

Primer Grupo de Trabajo Abierto Inter Sesional Ad hoc

La Comisión sobre Derechos Humanos en su resolución 1998/20 del 9 de abril de 1998 decidió crear un Grupo de Trabajo Abierto Inter Sesional Ad hoc para elaborar y considerar otras propuestas para el posible establecimiento de un Foro Permanente para los Pueblos Indígenas (PFIP) dentro del sistema de las Naciones Unidas.

De acuerdo con la resolución de la CHR, el Primer Grupo de Trabajo Abierto Inter Sesional Ad hoc presidido por el Sr. Richard van Rijssens tuvo lugar del 14 al 19 de febrero de 1999 en Ginebra. Entre otros asuntos, se discutió el mandato, calidad de miembro y participación, a qué cuerpo de las NU debería responder el PFIP y su seguimiento. Se distribuyeron varias declaraciones de reuniones regionales de pueblos indígenas.

Durante la Sesión del Primer Grupo de Trabajo Ad hoc, luego que se llegó a un acuerdo general sobre los parámetros básicos del Foro Permanente, el Relator Presidente propuso las conclusiones y recomendaciones a adoptar como Conclusiones y Recomendaciones del Grupo de Trabajo. Esto sin em-

bargo, fue bloqueado por el representante indio, el Sr. R Venu, quién solicitó numerosas aclaraciones sobre asuntos de procedimiento, para ganar tiempo. A pesar de los repetidos llamados del Relator Presidente a la cooperación, la delegación india se negó a cambiar de opinión y planteó preguntas de procedimiento similares en vez de entrar en un debate sobre temas sustantivos. Finalmente, se adoptaron las Conclusiones y Recomendaciones del Grupo de Trabajo, como "Anexo I: Asuntos y sugerencias para el trabajo futuro identificado por el Presidente Relator basándose en la discusión del Grupo de Trabajo" y "Anexo II: Resumen del Presidente Relator del debate sobre: El mandato y los términos de referencia, calidad de miembro y participación y el organismo de las Naciones Unidas al cual proponemos que informe el foro". India fue apoyada por la delegación de los Estados Unidos. Un gran número de delegados gubernamentales no estableció su posición sobre el tema.

Luego de considerar el informe (E/CN.4/1999/83) del Presidente Relator, el Sr. van Rijssens, la CHR en su resolución 1999/52 del 27 de abril de 1999, decidió restablecer el grupo de trabajo abierto inter-sesional ad hoc creado de acuerdo con la resolución 1998/20 para que se reuniera durante ocho días laborables previos a la quinceava sesión de la Comisión y solicitó al grupo de trabajo que presentara, con miras a que completara su tarea, una o más propuestas concretas para la creación de un foro permanente a ser consideradas por la Comisión en esa sesión. En preparación de la siguiente sesión del grupo de trabajo ad hoc, la resolución también invitaba al Relator Presidente del Grupo de Trabajo, el Sr. Richard van Rijssens, a presentar un documento de trabajo a los Estados Miembro y otros participantes del grupo de trabajo ad hoc, que contuviera sugerencias y posibles alternativas sobre todos los aspectos de este asunto, basado en el resultado del debate llevado a cabo en la primera sesión del grupo de trabajo y la consultas informales subsiguientes. El ECOSOC endosó la resolución de la CHR en su decisión 1999/242 del 27 de julio de 1999.

Segundo Grupo de Trabajo Ad hoc en el Foro Permanente

La segunda Sesión del Grupo de Trabajo Ad hoc sobre la creación del Foro Permanente, se realizó del 14 al 23 de febrero de 2000. el Sr. Peter Wille de Noruega, fue elegido Relator Presidente de la segunda Sesión del Grupo de Trabajo Ad hoc.

El Relator Presidente del Primer Grupo de Trabajo Ad hoc, el Sr. Richard van Rijssens presentó el "Informe sobre las consultas mantenidas por el Relator/Presidente" (E/CN.4/AC.47/2000/2). Éste contenía recomendaciones concretas sobre la creación del Foro Permanente.

Consciente de los antecedentes de los gobiernos asiáticos, en liga con los Estados Unidos sobre pueblos indígenas, la Red de Pueblos Indígenas y Tribales (AITPN) emprendió un estudio con miras a desarrollar "posibles posiciones indígenas" en todos los asuntos relativos al Foro Permanente en cooperación con el Consejo Sami y el Grupo Internacional de Trabajo sobre Asuntos Indígenas. El estudio tenía la intención de ayudar a desarrollar posiciones de consenso por parte de los pueblos indígenas y contribuir efectivamente en la 2ª Sesión del Grupo de Trabajo Ad hoc. Se preparó un estudio detallado sobre *"Las posibles posiciones de los pueblos indígenas"* para un taller sobre el tema realizado en Copenhague del 7 al 8 de enero de 2000, para un grupo de pueblos indígenas. El taller de Copenhague hizo recomendaciones concretas sobre la creación de un Foro Permanente para la consideración del sector indígena. Luego de dos días de consultas, basándose en las recomendaciones de Copenhague, el 12-13 de febrero de 2000, el sector indígena unánimemente adoptó las "Recomendaciones del sector indígena sobre la creación del foro permanente para pueblos indígenas en el sistema de las Naciones Unidas" contenido en el documento E/CN.4/AC.47/2000/CRP.1.

Un representante indígena presentó las recomendaciones para el sector indígena y solicitó a los representantes gubernamentales que lo consideraran como base para su trabajo. Las recomendaciones se relacionaban con: la creación de un foro permanente para pueblos indígenas; el mandato y calidad de miembro del grupo central; nominaciones para el grupo central; participación de observadores en la reunión abierta; ubicación del foro permanente en el sistema de las Naciones Unidas; votación; el nombre del foro; el número de miembros; reglas de procedimiento; términos de referencia, financiamiento y ubicación del foro permanente y su secretariado. Las recomendaciones del sector indígena fueron aceptadas por los representantes gubernamentales como base para la discusión del Grupo de Trabajo.

A propuesta del Relator Presidente, el Grupo de Trabajo decidió mantener reuniones formales e informales y nombrar un representante gubernamental y un representante indígena como facilitadores para los siguientes sub-ítems con respecto a las propuestas para la creación de un foro permanente para pueblos indígenas: (a) Mandato y términos de referencia para las actividades a ser emprendidas por el foro; (b) Calidad de Miembro; (c) Implicancias financieras y de secretaría (d) El cuerpo de las Naciones Unidas al cual el propuesto foro debe informar; (e) Ubicación del foro; (f) Nombre del foro y (g) Otros asuntos.

Los facilitadores mantuvieron discusiones con los gobiernos y representantes indígenas en un intento por reflejar los denominadores comunes de

834

cada sub-ítem. Sin embargo, quedaron enormes espacios entre los "elementos de un foro permanente", lo cual en las palabras del Presidente Relator, "fue un reflejo de las diversas propuestas que se han presentado" y los informes de los facilitadores sobre el asunto del mandato. Un escrutinio superficial revela que el Relator Presidente o bien no tuvo en cuenta las percepciones de los facilitadores o los facilitadores simplemente no percibieron correctamente los puntos de vista de los participantes. Pero las actas de las sesiones del Grupo de Trabajo prevén que para alcanzar el consenso auto impuesto, el Relator Presidente evidentemente no trató de reflejar las percepciones de los facilitadores sobre el mandato del Foro Permanente en sus elementos de un foro permanente. Las consultas de los facilitadores sobre mandato solamente sirvieron para proporcionar un falso sentido de participación a los representantes indígenas en tanto que el Presidente negociaba con los delegados gubernamentales. El siguiente análisis del debate sobre mandato del Foro Permanente en el 2º Grupo de Trabajo Ad hoc es un claro testimonio.

Mandato

En los elementos de un foro permanente, el Relator Presidente previó lo siguiente para el mandato:

> *"El Foro será un cuerpo asesor con los miembros en funciones en su personal, capacidad independiente con el mandato para discutir asuntos indígenas dentro del mandato del Consejo Económico y Social y los temas de la Década Internacional.*
>
> *También se propuso que en el mandato se hiciera referencia específica a los Artículos 62 y 63 de la Carta de las Naciones Unidas.*
>
> *Al cumplir con su mandato, el Foro:*
>
> *(a) Proporcionará asesoramiento experto y recomendaciones sobre asuntos indígenas al cuerpo principal, así como a los programas y agencias dentro de las Naciones Unidas a través del Consejo Económico y Social;*
> *(b) Promoverá coordinación dentro del sistema de las Naciones Unidas de actividades relacionadas con los asuntos indígenas;*
> *(c) Preparará y difundirá información sobre asuntos indígenas".*

Como también declara el informe del Relator Presidente, "El representante de México presentó el trabajo de los facilitadores conjuntos sobre el mandato y términos de referencia para las actividades a ser realizadas por el foro. Enfatizó que el propósito del trabajo era ayudar a encontrar un denominador común como base para el acuerdo; sin embargo, en ese proceso han surgido otros puntos más difíciles. La tarea de los facilitadores fue considerar ambos aspectos. Él estaba convencido que el trabajo sería una base para otro diálogo constructivo entre los gobiernos y los representantes indígenas. Los facilitadores conjuntos proporcionaron el siguiente mandato luego de su discusión:

Examinar todos los asuntos de los Pueblos Indígenas [inter alia][referentes a]: [civiles], [políticos], económicos, sociales, culturales, educación, derechos humanos, salud, medio ambiente, desarrollo, [tratados, acuerdos y otros arreglos constructivos], mujeres, jóvenes, niños, [y otros derechos relacionados a los Pueblos Indígenas];

[Revisar][analizar] y promover una política coherente, lineamientos guía y una mejor coordinación de los planes, programas, instrumentos y actividades relacionados con los Pueblos Indígenas en el sistema de las Naciones Unidas;

Como cuerpo asesor proporcionar servicio de apoyo técnico en los asuntos de los Pueblos Indígenas para miembros de las Naciones Unidas y, a solicitud, de los cuerpos, programas, agencias especializadas de las Naciones Unidas y Pueblos Indígenas. Proporcionará asesoramiento de apoyo a los gobiernos que lo soliciten, especialmente en la elaboración de programas y proyectos relacionados con los Pueblos Indígenas;

Llevar a cabo estudios e investigación, y emitir informes sobre todos aquellos temas relacionados con su mandato; si se requiere, convocar expertos independientes y crear grupos de trabajo ad hoc en campos de estudio especializados;

Hacer recomendaciones al Consejo Económico y Social sobre asuntos indígenas;

836

Recomendar al Consejo Económico y Social el [considerar] convocar conferencias internacionales, [y] preparar estándares preliminares [y crear grupos de trabajo] sobre los asuntos de los Pueblos Indígenas

Consultar con las organizaciones de los Pueblos Indígenas, organizaciones gubernamentales y no gubernamentales preocupadas por los asuntos que caen dentro de su competencia;

Difundir la información sobre las preocupaciones y necesidades de los Pueblos Indígenas, y en el enfoque del sistema de las Naciones Unidas hacia los Pueblos Indígenas;

Promover la realización, adaptación, fortalecimiento y racionalización de las actividades del sistema de las Naciones Unidas en el campo de los Pueblos Indígenas.

Asuntos que merecen ser discutidos y debatidos

1. Los consejos indígenas desean que se incorporen los siguientes párrafos:

Ya que el mandato para el foro permanente es uno de los aspectos más importantes de la creación de un foro permanente para los Pueblos Indígenas, y ya que este cuerpo único estará dentro del sistema de las Naciones Unidas, se recomienda que el mandato se realizado de acuerdo al modelo de los Artículos 62 y 63 de la Carta de las Naciones Unidas;

El foro permanente tendrá un mandato amplio, inter alia para:

Para promover la paz y prosperidad de acuerdo con la Carta de las Naciones Unidas, desarrollando relaciones amistosas entre las naciones y los pueblos basadas en el respeto por el principio de derechos igualitarios;[1]

Hacer recomendaciones a la Asamblea General del Consejo Económico y Social, otros cuerpos de las Naciones Unidas y agencias especializadas sobre problemas urgentes que requieren inmediata aten-

ción con respecto a los Pueblos Indígenas y desarrollar propuestas para hacer efectivas dichas recomendaciones;2

2. El co-facilitador gubernamental informó al co-facilitador indígena que hay delegaciones que prefieren el término asuntos indígenas más que Pueblos Indígenas en el texto del mandato. El co-facilitador indígena igualmente informó al co-facilitador gubernamental que ellos prefieren el término Pueblos Indígenas más que asuntos indígenas señalando la declaración de apertura del Alto Comisionado para los Derechos Humanos.

Los facilitadores hicieron las siguientes recomendaciones:

"Explorar la posibilidad de incluir la referencia a los Artículos 62 y 63 de la Carta en el Preámbulo;

Explorar la posibilidad de introducir en el preámbulo, una referencia a la paz y prosperidad y relaciones amistosas entre naciones y pueblos."

Es claro que algunas delegaciones gubernamentales tenían objeciones con referencia a (1) Los artículos 62 y 63 de la Carta de las NU, (2) paz, prosperidad y relaciones amistosas, (3) problemas urgentes que requieren inmediata atención y (4) utilización del término pueblos indígenas. Los facilitadores proporcionaron la percepción de que hay amplio acuerdo sobre otras recomendaciones proporcionadas en el papel conjunto de los facilitadores. Uno se pregunta por qué las otras recomendaciones de los facilitadores en el mandato del foro no fueron debatidas en una sesión formal y adecuadamente reflejadas en los "elementos de un foro permanente".

Algunos representantes gubernamentales expresaron preocupación acerca de dar al Foro Permanente cualquier mandato sobre resolución de conflictos. El miedo es infundado; y surge principalmente debido a la ignorancia y temor indefendible acerca de la interferencia en asuntos internos. Los representantes indígenas correctamente declararon que los cuerpos subsidiarios del ECOSOC no tienen ningún mandato sobre resolución de conflictos. Las intervenciones en conflictos o situaciones de disputa son realizadas por el Secretario General, el Consejo de Seguridad y la Corte Internacional de Justicia. Los cuerpos subsidiarios del ECOSOC sólo hacen recomendaciones a sus cuerpos superiores.

Calidad de Miembro

Los elementos del Relator Presidente sobre un foro permanente en el asunto de calidad de miembro reflejaron los puntos de vista de los facilitadores y los Consejos Indígenas. Declaró que hay acuerdo en que la calidad de miembro del Foro debería ser dividido igualitariamente entre los gobiernos y los pueblos indígenas y reflejar una equitativa distribución geográfica y proporcionar el debido respeto al equilibrio de género. El número de miembros debería ser entre 18 y 30.

Desde la partida, la mayor parte de los representantes gubernamentales objetaron la nominación o designación de los miembros indígenas del Foro como representantes de sus comunidades o pueblos. Los representantes indígenas buscaron consistentemente el representar a sus pueblos o comunidades. En el espíritu de compromiso los representantes de los pueblos indígenas aceptaron la nominación o designación de miembros indígenas en su carácter individual. Pero los representantes del gobierno continuaron planteando cuestiones acerca de la representatividad de los miembros indígenas. Esto a pesar del hecho que el carácter individual hace la cuestión de representatividad nula e inválida. Ya que los pueblos indígenas no pudieron llegar a un consenso sobre la cuestión del carácter individual durante la 2ª. Sesión del Grupo de Trabajo Ad hoc, los representantes indígenas perdieron valioso tiempo para negociar sobre otros asuntos.

Selección de los Miembros

Los elementos del Relator Presidente para un foro permanente prevén:

> *"Los expertos nombrados por los gobiernos serán elegidos por el Consejo Económico y Social.*
>
> *Una propuesta es que los expertos indígenas serán nombrados por el Presidente del Consejo Económico y Social como consecuencia de las consultas con organizaciones y representantes indígenas.*
>
> *Otra propuesta es que la nominación de expertos indígenas debería ser confirmada por el Presidente del Consejo Económico y Social, basado en consultas que tendrán en cuenta los procesos indígenas en las diferentes regiones.*
>
> *También se enfatizó que la selección de miembros indígenas, por cualquier método, debería tener en cuenta los principios de amplia con-*

sulta, representatividad, transparencia e igualdad de oportunidades para cada comunidad.

La designación/elección de expertos será por un período de tres años, con la posibilidad de reelección por otro período".

El Relator Presidente reflejó correctamente las percepciones de los facilitadores. Sin embargo, muchos gobiernos expresaron preocupaciones acerca de los procedimientos de nominación de los miembros indígenas. Los elementos de un foro permanente del Relator Presidente también reflejaron los puntos de vista de los facilitadores en los siguientes subítems: (a) participación de observadores, (b) reuniones, (c) secretariado, (d) reglamentaciones de procedimiento/ toma de decisiones y (e) cláusula de revisión.

El Asunto de un Secretariado Separado: Oficina del Alto Comisionado para los Derechos Humanos

Los representantes de los pueblos indígenas, en sus varias declaraciones regionales, consistentemente exigieron que el Foro Permanente debía tener su propio secretariado. Los representantes gubernamentales, especialmente los Estados Unidos, a menudo buscaron bloquear la creación de un Foro Permanente planteando el financiamiento como forma de desviar la atención del verdadero problema, a pesar de que Estados Unidos continúa siendo el mayor moroso por no pago de derechos a las Naciones Unidas. Canadá declaró que la información financiera es esencial para convencer al Ministerio de Relaciones Exteriores sobre el Foro Permanente. Los representantes indígenas buscaron información específica sobre las implicancias de un secretariado separado con un personal mínimo.

En la 16ª. reunión, realizada el 22 de febrero de 2000, el Sr. Giuliano Comba, representante de la Sección Administración de la Oficina del Alto Comisionado para los Derechos Humanos, hizo una declaración sobre las implicancias financieras de la creación de un foro permanente. Proporcionó más aclaraciones sobre las implicancias presupuestales de diferentes aspectos del foro en respuesta a las preguntas planteadas por los participantes.

"Dijo que la información con respecto a las implicancias financieras del foro se basó en la solicitud hecha por el Relator Presidente, concretamente, una reunión del foro en Ginebra durante dos semanas utilizando todos los lenguajes oficiales, con 100 páginas de documentación previa a la sesión y 50 páginas de documentación posterior a la sesión, con un número de 18 miem-

bros. Él también había tenido en cuenta que podría haber necesidad de algún fortalecimiento del secretariado para asistir en la preparación, realizar el servicio del foro así como los imprevistos. Con esta base, la administración pudo hacer una estimación aproximada de US$ 470.000 que, si los cuerpos legislativos aprueban la creación del foro, sería absorbido por el presupuesto regular. Se prepararía un PBI detallado cuando y si se presentara una resolución preliminar sobre el foro para ser presentada a la Comisión de Derechos Humanos.

Un número de participantes solicitó mayor información acerca de los posibles costos del foro, en respuesta a lo cual el representante de la administración proporcionó la siguiente información adicional: el costo promedio de viaje y gastos de subsistencia diaria (DSA) de un solo miembro del foro por un período de dos semanas, sería de US$ 7.300; los costos del servicio de la conferencia por dos semanas se estiman en alrededor de $254.000; el costo del servicio a la reunión del foro en Nueva York sería marginalmente superior que en Ginebra ya que los DSA son más altos; un secretariado separado con un personal de cinco personas costaría alrededor de $1.5 millones; si el foro se reúne solamente una semana, los costos de la conferencia serían aproximadamente de $157.000; los costos de DSA para cinco miembros del Grupo de Trabajo sobre Pueblos Indígenas para el actual bienio eran de $19.200. El representante añadió que la información proporcionada era solamente indicativa, pero, ya que los costos son estándar en las Naciones Unidas, el esperaba que las cifras pudieran proporcionar alguna guía."

En tanto que los participantes buscaban información sobre implicancias financieras, el Sr. Giuliano Comba fue un paso más adelante para defender el que el Secretariado del Foro estuviera *adjunto* más que localizado. Citando autoridades no identificadas de las NU en Nueva York, el Sr. Comba declaró que la Sede Central de las NU en Nueva York ha informado que el Foro Permanente no puede tener un secretariado separado y por lo tanto, el Foro Permanente deba ser *adjunto* a la Oficina del Alto Comisionado para los Derechos Humanos. Más aún, el Sr. Comba explicó que solamente se podía crear un secretariado separado por medio de un convenio o tratado.

El Sr. Comba no clarificó quién había proporcionado tal asesoramiento no solicitado desde Nueva York acerca de la localización del Secretariado del Foro. Como en respuesta declaró un representante indígena, es prerrogativa del Grupo de Trabajo el hacer recomendaciones sobre todos los asuntos relacionados con el Foro Permanente incluyendo un secretariado separado y que es el ECOSOC quien puede aceptar o rechazar cualquier propuesta. No cae dentro del ámbito de ningún funcionario de la OACDH el transgredir el man-

841

dato del Grupo de Trabajo. Más aún, la afirmación de que un secretariado separado sólo puede ser creado por medio de una convención o tratado es simplemente falsa. El ECOSOC ha creado muchas agencias especializadas tales como UNICEF, FAO y OMS, todas las cuales tienen secretariados separados. Más aún, la Comisión para los Asentamientos Humanos, una Comisión Permanente de ECOSOC, creado por medio de una resolución de ECOSOC tiene un secretariado separado con base en Nairobi. De hecho, el asesoramiento no solicitado proporcionado por el Sr. Comba plantea serias preguntas acerca del papel de la Oficina del Alto Comisionado en la creación de un secretariado separado del Foro Permanente.

Hubo también renuencia por parte del Relator Presidente a recomendar inequívocamente que los representantes indígenas reivindiquen que se debería crear un secretariado separado para el foro permanente.

Un Obstáculo de los Españoles

En los elementos de un foro permanente, el Relator Presidente declara:

> *"Otra propuesta, como se estableció en este informe, es que el Foro debería ser creado como un cuerpo subsidiario del Consejo Económico y Social con una fórmula de base Estatal o combinada, gubernamental e indígena, sobre la base de equitativa distribución regional. De esta manera, cada Estado Miembro que tenga poblaciones indígenas en su territorio debería acreditar dos delegados, uno representando al gobierno y otro designado por los propios pueblos indígenas.*
>
> *También se propuso que el Foro debería ser creado como cuerpo subsidiario del Consejo Económico y Social como una de sus comisiones funcionales."*

Esta propuesta alternativa fue el resultado de la empecinada posición tomada por la delegación española en la Segunda Sesión del Grupo de Trabajo Ad hoc. Durante la Primera Sesión del Grupo de Trabajo Ad hoc, el mismo distinguido representante de España sugirió que el grupo nuclear del Foro Permanente debería estar constituido por representantes gubernamentales e indígenas en un pie de igualdad como en el modelo de la Organización Internacional del Trabajo donde están representados los representantes del gobierno, de las asociaciones de empleadores y asociaciones de empleados.

Como el Presidente del Primer Grupo de Trabajo Ad hoc correctamente declaró en su informe de consulta E/CN.4/AC.47/2000/2, "A pesar de que

342

esta idea ciertamente tiene sus méritos, un número de representantes gubernamentales e indígenas tienen serias reservas acerca de ello. Se dijo que esto podría llevar a la exclusión de personas y organizaciones (y pueblos) que no son considerados indígenas. Más aún, los gobiernos - cuando deciden acerca de la composición de la delegación - podría tratar de elegir aquellos individuos que avalen los puntos de vista del gobierno".

En el sistema tripartito de la OIT, los gobiernos, las asociaciones de empleadores y empleados están claramente identificados y representados. Más aún, en el sistema tripartito de la OIT, cada delegación estatal consiste en dos representantes del gobierno, un representante de las asociaciones de empleadores y un representante de las asociaciones de empleados. En la votación, el gobierno tiene dos votos, los representantes de las asociaciones de empleadores y las asociaciones de empleados tienen un voto. Pero, no hay tal clara demarcación de diferentes representaciones de grupo en el caso del Foro Permanente.

Los pueblos indígenas consistente y unánimemente se han opuesto a la posición de la delegación española en la Segunda Sesión del Grupo de Trabajo Ad hoc. Los representantes indígenas declararon que los elementos del Relator Presidente de que un foro permanente debería contener solamente aquellos elementos donde hubiera mínima convergencia de puntos de vista. Sin embargo, la propuesta de la delegación española fue unánimemente rechazada por las delegaciones indígenas. Sin embargo, el Relator Presidente tuvo que conservar la propuesta española debido a la irreductible posición de la delegación española. Se le dijo pública y privadamente al representante español que según su propuesta, los genuinos representantes indígenas nunca podrían representar a sus pueblos a menos que avalaran los puntos de vista del gobierno en cuestión. Y la propuesta española excluiría a los pueblos indígenas de Asia y Africa donde muchos gobiernos continúan planteando cuestiones acerca de la existencia de pueblos indígenas a pesar de su reconocimiento en la legislación interna. Más bien, la delegación española en colaboración con los representantes mexicanos buscó calmar a algunos representantes indígenas latinoamericanos declarando que una delegación conjunta con los gobiernos permitiría el crear el Foro Permanente actuando como una Comisión. A pesar de que la delegación mexicana mostró alguna flexibilidad para reconsiderar su propuesta de funcionamiento como comisión, la delegación española buscó el utilizar amenazas veladas hacia los delegados indígenas.

Desde que el Grupo de Trabajo sobare Pueblos Indígenas fue creado en 1982, la delegación española había estado generalmente inactiva en el proce-

so estándar del establecimiento de los derechos de los pueblos indígenas. En los últimos dos años, la activa participación de la delegación española en el Grupo de Trabajo sobre el Foro Permanente fue bienvenida por los pueblos indígenas. Sin embargo, la recalcitrante posición planteada por la delegación española durante la segunda sesión, sin ninguna consideración hacia los sentimientos y argumentos de las delegaciones indígenas tienden a alzar momentáneamente legítimas preguntas acerca del compromiso del gobierno de España con los asuntos indígenas. La inflexible posición del representante de España en la Segunda Sesión del Grupo de Trabajo Ad hoc casi descarriló el proceso de negociación. Queda sobreentendido que si el representante español hubiera retirado su recomendación del modelo de la OIT, la causa de los pueblos indígenas hubiera avanzado más. Sin embargo, el papel constructivo de la delegación española en la 56ª Sesión de la Comisión sobre Derechos Humanos proporcionó la percepción de que los puntos de vista del representante español en el 2º Grupo de Trabajo Ad hoc no necesariamente son los puntos de vista del gobierno español.

La Hipocresía Ritual de Cuba en la Comisión de Derechos Humanos

La Comisión sobre Derechos Humanos continua siendo testigo de los últimos restos del conflicto entre Estados Unidos y Cuba en la Guerra Fría. En tanto que Cuba se queja de la ritual resolución sobre la situación de lo derechos humanos en Cuba, promovida por los Estados Unidos, la causa de Cuba no ha avanzado por el destructivo papel de sus representantes en la Comisión sobre Derechos Humanos. Las ONGs de derechos humanos han estado seriamente preocupadas por el papel de la delegación cubana al destruir sistemáticamente los mecanismos de derechos humanos utilizando reglamentos y procedimientos. Sin embargo, muchos pueblos indígenas consideran la oposición de Cuba a la posición de los Estados Unidos como en apoyo a los pueblos indígenas. El Sr. Miguel Alfonso Martínez, representante de Cuba, a menudo dice, *"Nunca podré ser más indio que los indios"* para expresar su preocupación y apoyo a los nativos americanos. Quedo en evidencia en la 56ª Comisión sobre Derechos Humanos que esto es simplemente declarativo y una extensión de los últimos restos de la guerra fría.

Durante la 56ª Sesión de la Comisión sobre Derechos Humanos, la delegación danesa apoyó una resolución sobre el establecimiento del Foro Permanente basado en 'elementos de un foro permanente' propuesto por el Relator Presidente del 2º Grupo de Trabajo Ad hoc sobre el Foro Permanente. La propuesta danesa no contenía ningún nuevo elemento sino los acuerdos al-

544

canzados en la 2ª. Sesión del Grupo de Trabajo Ad hoc en febrero de 2000. La Comisión sobre Derechos Humanos adoptó la siguiente resolución 2000/87:

"La Comisión sobre Derechos Humanos, ...

1. Decide crear como órgano subsidiario un foro permanente sobre asuntos indígenas del Consejo compuesto de 16 miembros, 8 miembros a ser nombrados por los gobiernos y elegidos por el Consejo y 8 miembros a ser designados por el Presidente del Consejo como consecuencia de la consulta formal con el departamento y los grupos regionales por medio de sus coordinadores (la cursiva es mía), *basado en una amplia consulta con las organizaciones indígenas tomando en cuenta su diversidad y distribución geográfica de los pueblos indígenas del mundo así como los principios de transparencia, representatividad e igualdad de oportunidades para todos los pueblos indígenas,* incluyendo procesos internos, cuando sean adecuados, y procesos de consulta a los indígenas locales *(la cursiva es mía); todos sus miembros actuando en su condición personal como expertos independientes en asuntos indígenas por un período de tres años con la posibilidad de reelección o re-designación por otro período; podrán participar como observadores los estados, los cuerpos y órganos de las Naciones Unidas, las organizaciones intergubernamentales y organizaciones no-gubernamentales en condición de consultantes con el Consejo; las organizaciones de los pueblos indígenas podrán igualmente participar como observadores de acuerdo con los procedimientos que se han aplicado en el Grupo de Trabajo sobre Poblaciones Indígenas;*
2. Decide que el Foro Permanente sobre Asuntos Indígenas servirá de cuerpo consultivo al Consejo con un mandato para discutir asuntos indígenas dentro del mandato del Consejo relativo a desarrollo económico y social, cultura, el medio ambiente, la educación, la salud y los derechos humanos; y al hacerlo el Foro:

(a) Proporcionará asesoramiento experto y recomendaciones sobre asuntos indígenas al Consejo así como a los programas, fondos y agencias de las Naciones Unidas, a través del Consejo;
(b) Aumentará la conciencia y promoverá la integración y coordinación de actividades relacionadas con los asuntos indígenas dentro del sistema de las Naciones Unidas;
(c) Preparará y difundirá información sobre asuntos indígenas.

845

3. Decidirá que el Foro Permanente aplique los reglamentos y procedimientos establecidos para los órganos subsidiarios del Consejo en lo que sean aplicables, a menos que se decida lo contrario por parte del Consejo; el principio de consenso regirá en el Foro;

4. También decidirá si el Foro Permanente se reunirá en sesión anual de 10 días de trabajo en la Oficina de las Naciones Unidas en Ginebra o la Sede Central de las Naciones Unidas u otro lugar que el Foro Permanente pueda decidir de acuerdo con las leyes y reglamentos de las Naciones Unidas;

5. Además decidirá si el Foro Permanente presentará un informe anual al Consejo sobre sus actividades, incluyendo cualquier recomendación para su aprobación; el informe será distribuido a los órganos relevantes de las Naciones Unidas, fondos, programas y agencias como un medio, inter alia, de un mayor diálogo sobre asuntos indígenas dentro del sistema de las Naciones Unidas;

6. Decidirá si el financiamiento del Foro Permanente será proporcionado por los recursos existentes por medio del presupuesto regular de las Naciones Unidas y sus agencias especializadas y a través de las contribuciones voluntarias que sean donadas;

7. También decidirá que cinco años después de su creación, se llevará a cabo por parte del Consejo una evaluación del funcionamiento del Foro Permanente, incluyendo el método de selección de sus miembros, a la luz de la experiencia adquirida;

8. Además decidirá si una vez que el Foro Permanente haya sido creado y haya realizado su primera sesión anual, el Consejo revisará, sin prejuicio de cualquier resultado, todos los mecanismos existentes, procedimientos y programas dentro de las Naciones Unidas relativos a los asuntos indígenas, incluyendo el Grupo de Trabajo sobre Pueblos Indígenas, con miras a racionalizar actividades, evitando la duplicación y superposición y promoviendo la efectividad.

Cuando se presentó el borrador de resolución (E/CN.4/2000/L.68) en el Foro Permanente para ser debatido, en la sesión de la tarde del 25 de abril de 2000, el Sr. Miguel Alfonso Martínez de Cuba fue el primero en intervenir. Dijo que la creación de un Foro Permanente para los Pueblos Indígenas presentaría un número de problemas. Cuba tenía problemas con los párrafos operativos 1 y 8. Entre otros, Cuba se preguntaba cómo podrían los pueblos indígenas llegar un acuerdo sobre 8 nombres, dada la diversidad de puntos de vista sobre asuntos indígenas y el número de naciones con poblaciones indígenas.

Cuba también expresó su preocupación acerca de la abolición del Grupo de Trabajo sobre Poblaciones Indígenas y pidió que se votara por separado sobre el párrafo operativo y el párrafo operativo 8.

Cuba fue apoyada por completo por los Estados Unidos. Tan pronto como Cuba dijo que tenía problemas con los párrafos operativos 1 al 8 y pidió una votación separada sobre dichos párrafos, la delegación de E.E.U.U. hizo eco de que también tenía problemas con la selección de los miembros indígenas del Foro Permanente y el costo del Foro Permanente. La delegación de E.E.U.U. pidió una suspensión del debate.

El representante de Indonesia, Nugroho Wisnumurti, hablando en representación del Grupo Asiático planteó la cuestión de la ritual definición y expresó preocupación acerca del mandato del Foro Permanente. Durante la negociación, los gobiernos asiáticos expresaron su desacuerdo con el párrafo operativo 1 sobre la designación de los representantes indígenas. El gobierno asiático quería poder de veto sobre la designación de representantes indígenas.

Así se suspendió el debate sobre el Foro Permanente el 25 de abril de 2000. Cuando el borrador de resolución pasó a ser votado el 27 de abril de 2000, ninguno de los países asiáticos pidió formalmente un voto sobre el párrafo operativo 1. Fue el Sr. Miguel Alfonso Martínez de Cuba quien una vez más pidió un voto sobre los párrafos operativos de 1 a 8. Ante la insistencia de Cuba, los Estados Unidos y los gobiernos asiáticos, se insertó en el borrador de resolución que: "*como resultado de consultas formales con el departamento y los grupos regionales a través de sus coordinadores'* e *'incluyendo procesos internos, cuando sea adecuado, y procesos de consulta a indígenas locales'*".

Es curioso que Cuba se haya abstenido de votar sobre la totalidad de la resolución sobre el Foro Permanente luego de haber pedido una votación. El Sr. Martínez declaró que la delegación cubana se abstenía porque la resolución dejaba dudas sobre el tratamiento de los asuntos indígenas por las Naciones Unidas. Más aún declaró que Cuba reservaría su posición hasta que se llevara a cabo la evaluación sobre el Foro.

La afirmación del Sr. Martínez no es convincente. Si la delegación cubana está tan preocupada por el tratamiento de los asuntos indígenas en las Naciones Unidas, no debería haber pedido votación sobre el párrafo operativo 1, apoyando la posición de los Estados Unidos y los gobiernos asiáticos que diluyeron más los derechos de los pueblos indígenas a designar sus propios delegados. En tanto que la posición de Cuba sobre el futuro del Grupo de Trabajo sobre Poblaciones Indígenas tal como está contenido en el párrafo

847

operativo 8 es comprensible ya que el Sr. Martínez es un miembro del WGIP, el pedido de votación sobre el párrafo operativo 1 añade crédito a las legítimas dudas acerca de la auto proclamada preocupación sobre el tratamiento de los asuntos indígenas por la Naciones Unidas. Cuba pidió votación sobre el párrafo 1 para lograr el apoyo de los estados asiáticos a expensas de los pueblos indígenas de todo el mundo, para su propuesta sobre el párrafo 8. Desde el principio, Cuba se opuso al Foro Permanente aunque sus representantes en el Grupo de Trabajo Ad hoc proporcionaron visiones diferentes a la del Sr. Martínez. La declaración de Cuba en la Comisión - *"Cuba se reservará su posición hasta que se haya realizado la evaluación del Foro"* - no es más que una velada amenaza de que Cuba se opondría al Foro Permanente luego de la evaluación si el WGIP es abolido mientras tanto. También está claro que si Cuba hubiera apoyado la resolución no pidiendo la votación, la resolución final hubiera sido diferente.

El 27 de abril de 2000 se adoptó la resolución sobre la totalidad por voto nominal de 43 a favor sin votos en contra y 9 abstenciones seguida de una votación nominal de 11 a favor contra 21 en contra con 21 abstenciones rechazando una enmienda al texto. En una segunda rueda de votación, se aceptó un párrafo para enmendar la enmienda de un párrafo preliminar fue aceptado por una votación de 21 a favor contra 6 en contra con 26 abstenciones. El párrafo aceptado dice: "Enfatizando que la creación de un foro permanente debería llevar a la cuidadosa consideración del futuro del grupo de trabajo sobre poblaciones indígenas", que fue incorporado al texto de la resolución.

En una votación a mano alzada de 43 a favor sin votos en contra con 9 abstenciones, se decidió conservar el párrafo operativo 1 del texto.

En otra votación a mano alzada para mantener el párrafo operativo 8, la Comisión lo mantuvo por una votación de 35 a favor sin votos en contra y con 16 abstenciones.

Conclusiones

Aunque la Comisión de Derechos Humanos adoptó la resolución 2000/87 sobre la creación de un foro permanente sobre asuntos indígenas, la creación del Foro Permanente es el típico caso de tan cerca, pero a la vez tan lejos. La explicación dada por el Secretariado de la Oficina del Alto Comisionado para los Derechos Humanos sobre el asunto del secretariado separado es *"INQUIETANTE"* para decir lo más leve. Un secretariado separado para el Foro Permanente con 5 funcionarios que cuesta solamente US$ 1.5 por año a ser pagado por 185 estados miembro de las Naciones Unidas es demasiado pequeño y demasiado tarde. Todavía existe tanta oposición, aún por parte de la Oficina

del Alto Comisionado para los Derechos Humanos. En la 56ª Sesión de la CDH, la delegación de la India declaró que plantearía sus preocupaciones en el Consejo Económico y Social. Más aún, los pueblos indígenas todavía deben resolver el asunto de la división geográfica del mundo indígena. Dado el hecho que los pueblos indígenas recomendaron 17 regiones durante la segunda Sesión del Grupo de Trabajo Ad hoc, el nombramiento de 8 miembros tal como prevé la resolución de la CDH exige pragmatismo y espíritu de compromiso. En último caso, es la unidad de los pueblos indígenas, a menudo expresada por el consejo indígena, que puede proporcionar el apoyo para los pueblos indígenas.

Notas

1 Declaración de los Derechos de los Pueblos a la Paz.

2 El término "Problemas urgentes" fue usado con respecto a la creación de la subcomisión para la Promoción y Protección de los Derechos Humanos.

849

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850

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Por Morita Carrasco

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IWGIA documento no. 30, 2000
US$ 18.00 + franqueo
ISBN 950-843-429-5

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Por Claudia Briones & Morita Carrasco

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Se incluyen también dos comentarios escritos por la comunidad Tremketuayiñ del Pueblo Mapuche y la comunidad del Pueblo Rankülche y una carta presentada al rey de España Juan Carlos de Borbón en ocasión de su particapación en la Quinta Cumbre de Presidentes de Estados y de Gobierno de Hispanoamérica, realizada en la ciudad de Bariloche, en octubre de 1995. En ella se demanda del rey que reconozca las responsabilidades de España en el sometimiento del Pueblo Mapuche.

Finalemente se transcriben los acuerdos y tratados firmados, completándose la edición con mapas y fotos de la época.

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MÉXICO: EXPERIENCIAS DE AUTONOMÍA INDÍGENA
By Aracely Burguete Cal y Mayor

Esta importante colección de artículos será lectura obligatoria para todo aquel que desee una mayor comprensión del dinámico proceso de cambio que México y sus pueblos indígenas han vivenciado a finales del pasado milenio.

El libro describe múltiples experiencias y presenta varias propuestas relativas a la cuestión de la autonomía indígena.

Se describen varias contribuciones al proceso de construcción de una propuesta nacional sobre autonomía. Se analizan aspectos constitucionales e internacionales sobre la autonomía. Se provee un punto de vista femenino. Se presentan casos significativos de autonomía local y lucha de los pueblos indígenas por sus recursos y medio ambiente en oposición a una política gubernamental para el desarrollo infraestructural equivocada y mal planificada.

Finalmente se comenta la situación en Chiapas y la autora,Aracely Burguette, termina el libro con un analítico capítulo sobre la nueva conformación étnica de las serranías de Chiapas y de San Cristóbal de las Casas como un marco contextual para las tendencias autonomistas y la potenciación indígena de la región
Publicado también en inglés.

IWGIA documento No. 28, 1999 (doc. no. 94, ingles, 2000)
ISBN: 87-90730-10-0, ISSN 0108-9927
US$ 19.00 + franqueo.

852

EL FORO PERMANENTE PARA LOS PUEBLOS INDÍGENAS. LA LUCHA POR UNA NUEVA RELACIÓN DENTRO DE LA COMUNIDAD INTERNACIONAL.

Editado por Lola García-Alix

Este documento es una recopilación de diferentes informes y documentos en su mayor parte documentación oficial de las Naciones Unidas. También se incluyen una descripción de los antecedentes del proceso de discusión sobre el establecimiento del Foro y una descripción técnica del sistema de Naciones Unidas. El objetivo de este libro es el de ofrecer un documento de trabajo útil en el debate de las cuestiones relativas al proceso de creación de un organismo permanente para los pueblos indígenas dentro del sistema de las Naciones Unidas. Publicado también en inglés.

IWGIA documento no. 27, 1999. (en ingles, documento no. 91)
ISBN 87-90730-09-7, ISSN 0108-9927
US$ 10.00 + franqueo.

LOS DERECHOS DE LOS PUEBLOS INDÍGENAS EN VENEZUELA

Por Luis Jesús Bello

La legislación venezolana, aunque débil y deficiente, todavía puede brindar un importante grado de protección de los derechos indígenas si es usada de una manera decidida y bien informada. Este documento de IWGIA tiene el objetivo de colaborar con este proceso brindando a los pueblos indígenas y a sus simpatizantes un sumario conciso de sus derechos y protecciones legales. El autor, Luis Jesús Bello trabaja como abogado para la Oficina de Derechos Humanos del Vicariato Apostólico de Puerto Ayacucho en el Estado Amazonas de Venezuela y como asesor de la Organización Regional de los Pueblos Indígenas de Amazonas, ORPIA.

IWGIA documento no. 26, 1999
ISBN 87-90730-06-2, ISSN 0108-9927.
US$ 10.00+ franqueo.

853

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860

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861

EL MUNDO INDÍGENA

La nueva edición del informe anual de IWGIA cuenta con la contribución de investigadores y activistas indígenas y no indígenas

- ofrece un panorama de la situación actual y los momentos cruciales de los pueblos indígenas de las Américas, África, Asia, el Ártico y el Pacífico, acontecidos en 1999 y principios de 2000, poniendo especial atención en la mujer indígena.

- presenta informes del Grupo de Trabajo de las Naciones Unidas sobre la Declaración de los Derechos de los Pueblos Indígenas y sobre el proceso del establecimiento del Foro Permanente de los pueblos indígenas en el sistema de las Naciones Unidas.

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862

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